



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 05.02.2026
Judgment delivered on: 23.05.2026

+ LPA 55/2025

SUNIL KUKREJA

.....Appellant

versus

NATIONAL RURAL ROADS DEVELOPMENT AGENCY
& ANR.

.....Respondents

Advocates who appeared in this case

For the Appellant : Mr. Sobal Gupta, Mr. Himanshu Swami, Ms. Sutanuka Chatterjee and Mr. Suresh Kumar, Advocates.

For the Respondent : Mr. Mayank Yadav, Advocate for R-1.
Mr. M.K. Vashishth, Advocate for R-2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present Letters Patent Appeal has been preferred against the judgment and order dated 18.12.2024 (“**Impugned Judgment**”) passed in



W.P.(C) 2308/2016 (“**Writ Petition**”) to the extent of the direction of adjusting the employer’s share of contributions made towards the Contributory Provident Fund (“**CPF**”) against the amounts required to be contributed towards the Employees’ Defined Contribution Superannuation Fund Scheme (“**EDCSF Scheme**”).

FACTUAL MATRIX

2. The Appellant joined M/s. Projects and Equipment Corporation of India Limited, Respondent No. 2, on 26.03.1977, whereafter he proceeded on deputation with National Rural Roads Development Authority, Respondent No. 1, on 30.11.2010 and remained on deputation until 22.05.2015. The Appellant retired on 31.05.2015 as the Chief Finance Manager at Respondent No. 2 upon attaining the age of superannuation.

3. Respondent No. 2, in collaboration with the Life Insurance Corporation of India (“**LIC**”), introduced the EDCSF Scheme and described it as a pension scheme. Under the said Scheme, the employer was required to make a monthly contribution equivalent to 9% of the employee’s salary (Basic Pay + DA) to LIC, while the employee was required to contribute 1% of his salary (Basic Pay + DA) towards the EDCSF Scheme. *Vide* Circular No. 12/2014 dated 13.06.2014, Respondent No. 2 granted employees the option to seek refund of their contributions under the Scheme. Further, *vide* Letter dated 18.06.2014, Respondent No. 2 informed Respondent No. 1 that the EDCSF Scheme had been introduced in March 2014 with effect from 01.01.2007, and requested remittance of the requisite contribution in respect of the Appellant with effect from 30.11.2010, i.e., the date of commencement of deputation, up to 30.06.2014, together with the monthly contribution payable thereafter until the conclusion of the deputation period.



4. Respondent No. 1 failed to remit the employer's contribution towards the EDCSF Scheme, whereupon Respondent No. 2 communicated the said default to Respondent No. 1 *vide* Letter dated 12.03.2015. Thereafter, *vide* Letter dated 19.05.2015, Respondent No. 2 apprised Respondent No. 1 that the contribution payable under the EDCSF Scheme was in addition to the Leave Salary Contribution and the employer's share of CPF. Further, *vide* Letter dated 27.05.2015, it was clarified that, under the EDCSF Scheme, Respondent No. 2 had remitted its contribution of Rs. 2,01,484/- for the period from January 2007 to 29.10.2010, as well as a further sum of Rs. 5,821/- up to 29.11.2010. However, *vide* Letter dated 08.06.2015, Respondent No. 1 declined to remit the employer's contribution towards the EDCSF Scheme for the period of deputation. Thereafter, the Appellant submitted a representation dated 18.06.2015 to Respondent No. 1 seeking release of the EDCSF contribution for the deputation period, which representation came to be disposed of by Respondent No. 1 *vide* Letter dated 29.10.2015, wherein it was, *inter alia*, observed that the Fundamental Rules do not permit payment of both contributory pension and CPF by the Central Government.

5. Aggrieved by the aforesaid Letter dated 29.10.2015, the Appellant instituted the Writ Petition, praying for quashing and setting aside the said communication and for a direction to the Respondents to remit their share of the pension contribution to LIC together with interest at the rate of 9% per annum.

6. The Writ Petition was allowed, and this Court directed Respondent No. 1 to remit its share of the pension contribution for the period from 30.11.2010 to 22.05.2015 to LIC within eight weeks, after making the



necessary adjustments against the amounts contributed towards CPF, along with interest at the rate of 8% per annum from the date of the Appellant's superannuation until the release of his pensionary benefits.

7. Aggrieved by the direction permitting adjustment of the employer's share of contributions made towards CPF against the amounts required to be contributed towards the EDCSF Scheme, the Appellant has preferred the present Appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

8. The learned Counsel for the Appellant made the following submissions:

8.1. The EDCSF Scheme is an annuity scheme floated jointly by Respondent No. 2 and the LIC. The Scheme is governed by the Employees' Defined Contribution Superannuation Fund Rules ("EDCSF Rules"). The Note under Rule 6(b)(ii) of the EDCSF Rules expressly provides for a cap on the total contribution, stating that contributions made towards EDCSF together with any Provident Fund cannot exceed the prescribed percentage of the aggregate salary paid by the employer to the employee under the Income Tax Act, 1961. Rule 6(b)(ii) of the EDCSF Rules clearly demonstrates that the EDCSF Scheme is conceived as being in addition to CPF, not in substitution thereof.

8.2. This position is further fortified by contemporaneous documents and admissions of Respondent No. 2. The Letter dated 19.05.2015 in its second paragraph categorically records that the employer was required to pay contributions towards



both CPF as well as EDCSF. Similarly, in Paragraph No. 15(A) of its Counter Affidavit filed in the Writ Petition, Respondent No. 2 has expressly supported the view that the EDCSF Scheme operates in addition to CPF.

- 8.3. There is no law which prohibits an employer from introducing supplementary post-retirement benefit schemes for its employees. The EDCSF Scheme is a supplementary scheme introduced by Respondent No. 2 for the welfare of its employees. The EDCSF Scheme cannot be equated with pension as contemplated under Rule 4 of the Contributory Provident Fund Rules, 1962, (“**CPF Rules**”) especially when Respondent No. 2 has consistently acknowledged that the EDCSF Scheme is in addition to CPF. Moreover, the EDCSF Scheme is fundamentally distinct from pension governed by the Central Civil Services (Pension) Rules, 1972 (“**CCS (Pension) Rules**”). The public servant is entitled to have benefits either under the CPF Rules or the benefits of pension under the CCS (Pension) Rules. Under no uncertain means can CPF be replaced by a less beneficiary non statutory scheme as the same would be in contravention to the public policy of the state.
- 8.4. Rule 6(d) of the EDCSF Rules requires that during the period of deputation the employer’s contributions must continue to be remitted by the parent organization to the trust, with liberty to the parent organization to recover the same from the borrowing organization. Once Respondent No. 2 has acknowledged the Appellant’s entitlement to employer’s contribution under



EDCSF during deputation, any dispute *inter se* the Respondents is a separate cause of action and the rights of the Appellant cannot be curtailed due to the dispute between the Respondents.

- 8.5. In view of the above, the direction of adjusting the employer's share of contributions made towards CPF against the amounts required to be contributed towards the EDCSF Scheme maybe set aside from the Impugned Judgment.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

9. The learned Counsel for Respondent No. 2 submitted that no substantive relief has been sought against Respondent No. 2 in the present Appeal.

10. The learned Counsel for Respondent No. 1 made the following submissions:

10.1 Respondent No. 1 had discharged all its liabilities as per the terms and conditions of deputation with Respondent No. 1, which were duly communicated to the Appellant and as per Rule 115 of the Fundamental Rules, by making due payment under Leave Salary Contribution @11% of actual pay drawn in foreign services, employer's share to CPF @12% of Basic+GP+DA and gratuity contribution.

10.2 The Appellant himself applied for the pension scheme with Respondent No. 2, admittedly, without even intimating Respondent No. 1 and no approval was obtained from Respondent No. 1 regarding the Appellant's commitment. There is no provision for payment of both Contributory Pension and Contributory Provident Fund by the employer under



existing Government of India rules. After introduction of the EDCSF Scheme vide Circular No. 12/ 2014 dated 13.06.2014, Respondent No. 1 was requested by Respondent No. 2 in March, 2014 to send requisite contribution with effect from 30.11.2010 i.e. from the date of commencement of deputation up to 30.06.2014 as well as monthly contribution thereafter till the end of deputation period.

- 10.3 *Vide* letter dated 08.06.2015 Respondent No. 1 informed Respondent No. 2 that after remitting all the mandatory employers' contributions as per Government of India orders, the contribution towards the EDCSF Scheme for the deputation period is not possible for Respondent No. 1. Thereafter, the Appellant made another representation dated 18.06.2015 before Respondent No. 1 seeking release of the EDCSF contribution for the deputation period. The matter was carefully considered and it was reiterated that Pension Contribution is not payable to the Petitioner by Respondent No. 1 on account of the fact that Respondent No. 1 is an autonomous body fully funded by Grants-in-Aid from the Central Government and Fundamental Rules do not permit for payment of both Contributory Pension and CPF by the Central Government since Respondent No. 1 had already made contribution towards the Petitioner's Gratuity, share of Provident Fund and Leave Salary Contribution, no further contribution could be paid under the relevant provision of Fundamental Rules. Since Respondent No. 1 already paid CPF which was in lieu of pension



contributions for pensionary benefits, Respondent No. 1 was not liable to pay any other additional contributions to the account of the Appellant, as per the terms and conditions governing deputation of the Appellant.

- 10.4 Respondent No. 1's concurrence was not obtained when the Petitioner applied for enrolment under the EDCSF Scheme during deputation in Respondent No. 1. Accordingly, the Appellant's representation dated 18.06.2015 was disposed of. The Fundamental Rules do not permit payment of both Contributory Pension and CPF by the Central Government as mentioned in the Impugned Judgment. The Appellant before the learned Single Judge has given an impression that the EDCSF Scheme is a pension scheme which was introduced by Respondent No. 2. It was duly represented before the learned Single Judge that the Respondent No. 1 being a body fully funded by the Government cannot transgress rules and regulations framed by the Government of India and the same was intimated to Respondent No. 2 *vide* letter dated 13.05.2015.

ANALYSIS AND FINDINGS

11. We have heard learned counsel for the parties and perused the Impugned Judgment. The challenge in the present Appeal is confined to that part of the Impugned Judgment whereby adjustment of the employer's share of contributions made towards CPF against the amounts required to be contributed towards the EDCSF Scheme has been permitted.



12. Learned counsel for the Appellant has contended that the EDCSF Scheme is an annuity scheme introduced jointly by Respondent No. 2 and LIC. It was submitted that Rule 6(b)(ii) of the EDCSF Rules clearly indicates that the EDCSF Scheme was conceived as operating in addition to CPF and not in substitution thereof. It was further urged that there exists no legal prohibition against an employer introducing supplementary post-retirement benefit schemes for the welfare of its employees. According to the Appellant, the EDCSF Scheme is one such supplementary welfare measure introduced by Respondent No. 2, and a mere casual or colloquial reference to the said Scheme as a Pension Scheme would not, by itself, bring it within the ambit of Rule 4 of the CPF Rules.

13. Learned counsel for the Appellant further submitted that the learned Single Judge erred in failing to appreciate that the EDCSF Scheme is not a Pension Scheme, but an annuity arrangement introduced to provide additional post-retirement benefits to employees. It was contended that a public servant is entitled either to the benefits available under the CPF Rules or to pensionary benefits under the CCS (Pension) Rules. According to the Appellant, CPF cannot be substituted by a less beneficial, non-statutory scheme, as such substitution would be contrary to public policy. It was, therefore, urged that the learned Single Judge erred in holding that Respondent No. 1 was entitled to remit its share of the pension contribution after making adjustments against the amounts already contributed towards CPF.

14. Learned counsel for Respondent No. 1 submitted that Respondent No. 1 had duly discharged all its obligations in accordance with the terms and conditions governing the deputation, which had been duly communicated to



the Appellant. It was further submitted that the Appellant had on his own applied for the pension scheme with Respondent No. 2 without even intimating Respondent No. 1, and that no approval in respect of such commitment had been obtained from Respondent No. 1. It was urged that, under the existing Government of India rules, there is no provision permitting payment by the employer of both contributory pension and CPF.

15. Learned counsel for Respondent No. 1 further submitted that Respondent No. 1 is an autonomous body fully funded by grants-in-aid from the Central Government, and that the Fundamental Rules do not permit payment by the Central Government of both contributory pension and CPF. It was contended that, since Respondent No. 1 had already made contributions towards the Appellant's gratuity, provident fund share, and leave salary contribution, no further contribution could be paid under the relevant provisions of the Fundamental Rules. It was further submitted that, as CPF had already been paid in lieu of pension contribution towards pensionary benefits, Respondent No. 1 was not liable, under the terms and conditions governing the Appellant's deputation, to make any additional contribution to the Appellant's account.

16. The learned Single Judge, upon a due consideration of the facts and the applicable Rules, rightly held that a perusal of the communications exchanged between the Appellant, Respondent No. 1 and Respondent No. 2 makes it evident that Respondent No. 1 had been called upon to remit its contribution only towards the pension of the Appellant for the period of deputation, namely, from 30.11.2010 to 22.05.2015, and not towards both pension and CPF.



17. Respondent No. 1 was, therefore, not justified in contending that it was under no obligation to contribute towards the pension payable to the Appellant, who is admittedly a pension optee, for the period of deputation. At the same time, Respondent No. 1 was entitled to make the necessary adjustments against the amounts already contributed towards CPF while remitting the pension contribution.

18. We agree with the conclusion arrived at by the learned Single Judge that Respondent No. 1 could not have withheld the pension amount payable to the Appellant. However, Respondent No. 1 could not have been directed to pay the pension amount over and above the contribution already made towards CPF and was, therefore, rightly permitted to make the necessary adjustments against the amounts contributed towards CPF while remitting the pension contribution.

19. The contention advanced on behalf of the Appellant that a mere casual or colloquial reference to the EDCSF Scheme as a pension scheme would not bring it within the ambit of Rule 4 of the CPF Rules cannot be accepted. The Appellant had voluntarily opted for the EDCSF Scheme *vide* Letter dated 18.04.2014, at a stage when the nature of the said Scheme as a Pension Scheme was fully known and understood. A plain reading of the EDCSF Scheme leaves little room for doubt that it is actually a Pension Scheme.

20. Consequently, the submission that the EDCSF Scheme is not a Pension Scheme, but merely an annuity arrangement intended to provide additional post-retirement benefits, cannot be sustained. In the Writ Petition, the Appellant himself referred to the EDCSF Scheme as a Pension Scheme and acknowledged that he is a pension optee thereunder. In these



circumstances, the Appellant cannot now be permitted to resile from the position earlier taken by him before the learned Single Judge.

21. In view of the above analysis, the Appellant has not been able to make out any ground warranting interference with the Impugned Judgment. Accordingly, the present Appeal is, accordingly, dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 23, 2026

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