

**Central Administrative Tribunal
Madras Bench**

OA/310/01843/2014

Dated the 23rd day of January Two Thousand Twenty

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

A.Amirthalingam,
S/o Y.S.Arumugam,
51E, Gandhinagar,
Vellandivasalai 637105,
Idapapadi Taluk,
Salem District. .. Applicant
By Advocate **M/s.Raj & Raj Associates**

Vs.

1. Union of India, rep by
The Chief Post Master General,
Tamil Nadu Circle,
Chennai 600 002.
2. The Superintendent of Post Offices,
Namakkal Division,
Namakkal 637 001. .. Respondents
By Advocate **Mr.J.Vasu**

ORDER

[Pronounced by Hon'ble Mr. P. Madhavan, Member(J)]

The applicant has filed this OA seeking the following relief:-

“....to call for the records pertaining to the impugned order of the 2nd respondent made in his proceeding Memo No.BGT/Mis.AA/14 dated 21.10.2014 rejecting the claim of the applicant to bring his services under CCS (Pension) Rules, 1972 from the Contributory Pension Scheme in which he is presently enrolled and set aside the same and direct the respondents to bring the applicant under the pensionary scheme under the Old CCS Pension Rules 1972 and pass such other or further order or orders in the circumstances of the case and in the interest of justice.”

2. The applicant's case is that the applicant was in the services of Postal Department as Gramin Dak Sevak (GDS) till he was appointed as Postman as per order dt. 09.9.2010. According to the applicant, prior to his appointment as GDS EDDA he had worked provisionally in Sankari Drug Post Office w.e.f. 20.4.2001. According to the applicant, his appointment to the post of Postman has to be treated as promotion and the applicant worked provisionally as Postman from 01.7.06 to 02.9.2010 and on his regular selection he was posted as Postman.

3. The applicant had made a representation to the respondents to consider his past service in GDS EDDA for pension purpose. The respondents in this case has brought him under Contributory Provident Fund (CPF) as he was appointed as Postman only on 01.7.06. The respondents had rejected the above said representation and hence this OA.

4. The respondents entered appearance and filed a detailed reply stating that the GDS EDDA employees are not regular Government servants. They are a separate

cadre outside the Government service, existing only in the Department of Post and formed with the primary objective of providing postal services in the remote villages of the country. They are outside the regular civil service and cannot be considered for pension. The service rendered by the applicant in GDS cannot be considered as regular service under CCS (Pension) Rules. As per CCS (Pension) Rules, service means, service under the Government and paid by the Government from consolidated fund of India or a local fund administered by that Government but does not include service in a non-pensionable establishment. EDA are excluded from the application of pension. It is also submitted that Rule 6 of the GDS (Conduct & Engagement) Rules, 2001 clearly states that GDS service is non-pensionable and hence cannot be counted for the purpose of pension on their regular appointment as Postman/MTS.

5. When the matter came up for hearing, the CFR has invited our attention to the latest decision of the Hon'ble Supreme Court in ***Union of India & Ors. v. Gandiba Behera in Civil Appeal No.8497/2019 (arising out of SLP(C) No.13042/2014) dt. 08.11.19.*** According to the respondents, the said decision squarely covers the point in dispute.

6. We have perused the pleadings and various records produced by both sides. On a perusal of the pleadings, it can be seen that the main point to be considered is whether GDS can be considered for commutation of qualifying service for pension after appointed in a regular post. We have gone through the decision of the Hon'ble Apex Court in ***Union of India & Ors. v. Gandiba Behera***'s case. The Hon'ble Apex Court while dealing with a similar issue as to whether services rendered by the

employees in the postal department in the capacity of Gramin Dak Sevaks (GDS) ought to be computed or not for the purpose of calculation of the qualifying service of their pension after they got selected in regular posts in the said department, has answered the point in para-20 as follows:-

“20. For the reasons we have already discussed, we are of the opinion that the judgment under appeal cannot be sustained. There is no provision under the law on the basis of which any period of the service rendered by the respondents in the capacity of GDS could be added to their regular tenure in the postal department for the purpose of fulfilling the period of qualifying service on the question of grant of pension.”

7. As the point of law on which the relief sought seems to be settled finally by the Hon'ble Supreme Court, we see no scope for interference by this Tribunal. In view of this, the OA is dismissed. No costs.

(T.Jacob)
Member(A)

23.01.2020

(P.Madhavan)
Member(J)

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