

**Central Administrative Tribunal
Madras Bench**

OA/310/01841/2014

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)**

M.Palanisamy,
S/o K.Muthusamy,
Door No.2/3, Palaiyur,
Padaiveedu,
Sankari West 637 303. .. 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.SU.Srinivasan**

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.MP/14 dated 23.9.2014 rejecting the representation 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 to orders in the circumstances of the case and in the interest of justice.”

2. The applicant's case is that he was appointed as EDBPM w.e.f. 16.1.97 by order dated 27.1.2000. Prior to the said appointment he was appointed as probatory EDBPM on 10.1.97. Thereafter, through Departmental Competitive Examination he was selected and appointed as Postman on regular basis at Komarapalayam Post Office by order dated 21.9.2005 and he joined the post on 06.10.2005. He was confirmed in the post of Postman on 16.10.07. The contention of the applicant is that he is entitled to pension under the CCS(Pension) Rules, 1972 as also to add the period spent on officiating service as qualifying service for pension as the applicant was not a new entrant after 01.1.2004. But he was brought under the Contributory Pension Scheme instead of regular pension scheme. Therefore, he made representation dated 18.6.2014 to bring the applicant under the CCS(Pension) Rules, 1972 for pensionary benefits from the existing Contributory Pension Scheme. As

there was no response, he filed OA 1124/14 and this Tribunal, by order dated 25.7.2014 disposed of the OA with a direction to the respondents to consider and dispose of the representation of the applicant dt. 18.6.14 in accordance with law and as per rules and pass a reasoned and speaking order within a period of eight weeks. Pursuant to the said order, the respondents passed Annexure A9 impugned order dated 23.9.14 rejecting the claim of the applicant. Aggrieved by the said rejection order he has filed this OA seeking the aforesaid relief.

3. 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.

4. 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.

5. 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.”

6. 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)

(P.Madhavan)
Member(J)

23.01.2020

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