



**Central Administrative Tribunal
Principal Bench, New Delhi**

**MA No. 759/2020
OA No. 3542/2018**

This the 28th day of February, 2020

Hon'ble Mr. R.N. Singh, Member (J)

Parbhu Ram
Aged 37 years, Group 'B'
Assistant Superintendent of Post Offices
S/o Shri Gurdyal Ram
R/o Village – 10 RD, Birmania, Teh. – Suratgarh
Distt. Sriganganagar, Rajasthan.

(Applicant is presently working and posted as Assistant Superintendent of Post Offices, Department of Post, Dak Bhawan, Sansad Marg, New Delhi – 110001)

(By Advocate : Mr. Asish Nischal)

...Applicant

Versus

1. Union of India
Through Secretary
Department of Post
Dak Bhawan, Sansad Marg
New Delhi – 110001.
2. The Chief Postmaster General
Department of Post
Rajasthan Circle
Jaipur – 302007.

... Respondents

(By Advocate : Mr. J.P. Tiwari)

ORDER (ORAL)

Mr. R.N. Singh :

The present MA No. 759/2020 has been filed by the applicant in OA No. 3542/2018 praying therein to dispose of the OA in view of the Office Memorandum No. 57/04/2019-P&PW(B) dated 17.02.2020 issued by the Govt. of India, Department of Personnel & Training and PW regarding coverage under Central Civil Services (Pension) Rules, 1972, in place of National Pension System of those Central Government employees whose



selection for appointment was finalized before 01.01.2004 but who joined Government service on or after 01.01.2004.

2. Issue notice to the respondents. Mr. J.P. Tiwari, learned counsel for respondents accepts notice.

3. With the consent of the learned counsels for the parties, the OA No. 3542/2018 is taken up for final disposal.

4. In the present OA filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has impugned the orders dated 07.07.2017 and 09.07.2018 (Annexure A-1 and Annexure A-2) whereby the request of the applicant for consideration of conversion from New Pension Scheme to Old Pension Scheme has been rejected by the respondents.

5. The applicant has prayed for the following reliefs in the present OA :-

- “(a) quash and set aside both the impugned Orders dated 07.07.2017 and 09.07.2018;
- (b) respondents be directed to treat the applicant as a member of Old Pension Scheme, on notional basis, having been appointed as Post Assistant from the date of occurrence of vacancies only for the limited purpose of grant of pension under CCS (Pension) Rules, 1972 ;
- (c) direct the Respondents to refund entire amounts so far recovered, from the applicant, under the New Pension Scheme or adjust the same as per the rules ;
- (d) pass such other order or orders, which this Hon’ble Tribunal may deem just and equitable in the facts and circumstances of the case.”

6. In response to the notice by the Tribunal, the respondents have filed the counter reply and the applicant in response thereto has filed rejoinder.

7. In the counter reply, the respondents have disputed and opposed the claim of the applicant made in the present OA.

8. Per contra, in the rejoinder filed by the applicant, he reiterated and affirmed his claim.



9. Learned counsel for the applicant submits that in pursuance of the notifications issued on 16.11.2001 and 20.02.2003, the applicant has participated in the selection process along with various candidates and he was selected for the post of Postal Assistant under the respondents. He further submits that though the various persons selected in the same selection process could join the services of the respondents as Postal Assistants on or before 01.01.2004, however, because of the administrative reasons attributable to the respondents and in no manner attributable to the applicant, the applicant could join the respondents as Postal Assistant only w.e.f. 23.03.2004. He further submits that in view of such facts and law, the applicant is entitled for being regulated under the Old Pension Scheme along with his batchmates of the said recruitment process and not under the New Pension Scheme.

10. Mr J.P. Tiwari, learned counsel for the respondents has opposed the claim of the applicant vehemently.

11. However, it is not in dispute that during the process of selection, the respondents have taken policy decision vide aforesaid memorandum dated 17.02.2020.

12. Mr. Asish Nischal, learned counsel for the applicant submits that the claim of the applicant is squarely covered by the provisions of para 3 (ii) of the aforesaid OM which reads as under:

“3 (ii) some of the candidates selected through a common selection process were issued offers of appointments and were also appointed before 01.01.2004 whereas the offers of appointment to other selected candidates were issued on or after 1.1.2004 due to administrative reasons/constraints including pending Court/CAT cases.”

13. It is further provided in para 8 of the said OM dated 17.02.2020 that :

“8. The matter regarding coverage under the CCS (Pension) Rules, 1972 based on the option exercised by the Government servant shall be placed before the appointing authority for consideration in accordance with these instructions. In case the Government servant



fulfils the conditions for coverage under the CCS (Pension) Rule, 1972, in accordance with these instructions, necessary order in this regard shall be issued latest by 30th September, 2020. The NPS account of such Government servants shall, consequently, be closed w.e.f. **01st November, 2020.**

“

14. In view of the aforesaid, the OA is disposed of with liberty to the applicant to raise his claim as raised in the present OA before competent authority of the respondents in terms of the provisions of the aforesaid OM dated 17.02.2020 and, in case, such claim is preferred by the applicant, the respondents are directed to consider the same as expeditiously as possible under the provisions of said OM dated 17.02.2020.

In view of above, MA No. 759/2020 also stands disposed of.

There shall be no order as to costs.

**(R.N. Singh)
Member (J)**

‘anjali’