

**Central Administrative Tribunal
Ernakulam Bench**

OA 180/00779/2019

Tuesday, this the 22nd day of December, 2020

CORAM

**Hon'ble Mr.P.Madhavan, Judicial Member
Hon'ble Mr.K.V.Eapen, Administrative Member**

K.K. Susheela, aged 67 years,
W/o C.K. Ashokan,
Group D (retired), Business Post,
Thevara, Residing at Thundipparambil House
Ambedkar Road, Edakochi 682 010.

Applicant

(Advocate: Mr. Shafik M.A.)

Versus

1. Union of India rep. by the Secretary to Government of India
Director General Of Posts, Department of Posts,
Ministry of communications, Sanchar Bhavan,
New Delhi-110 001.
2. The Chief Post Master General
Kerala Circle, Thiruvananthapuram-695 033.
3. The Senior Superintendent of Post Offices,
Ernakulam Division,
Ernakulam-682 011.

Respondents

(Advocate: Mr.Thomas Mathew Nellimoottil, Sr.PCGC)

The OA having been heard on 7th December, 2020, this Tribunal delivered the following order on 22.12.2020:

O R D E R

By P.Madhavan, Judicial Member

This is an OA filed seeking the following reliefs:

- (i) *Call for the records relating to Annexure A1 to A12 and to declare that the applicant is entitled for pension as per CCS Pension Scheme for her service as Group-D, if necessary by relaxing the required service.*
- (ii) *Declare that the applicant, 1998 recruit as Group-D, is entitled for reckoning her service, at least notionally, with effect from 1998, for the purpose of pension.*

(iii) Direct the respondents to grant pension to the applicant for her service as Group-D with all consequential arrears and interest.

2. The applicant in this case is aggrieved by the refusal of the department to consider relaxing the eligibility for pension and to reckon her period of service in GDS cadre to overcome the shortage of 5 months to avail of pension benefits. According to the applicant, she joined the Postal Department on 14.2.1983 as Extra Departmental Branch Post Master (EDBPM) as per order dated 21.2.1983. Thereafter, she was appointed on regular basis as per memo dated 31.8.1983 issued by 3rd respondent and she became part of the Post & Telegraph Extra Departmental Agents (Conduct & Services) Rules, 1964. After 17 years of service as EDA, the applicant was appointed as a Group-D on officiating basis and she was posted at Palarivattom Post Office with effect from 12.10.2000. After working for more than 27 years under the department, the applicant retired as a Group-D on attaining the age of 60 years with effect from 31.1.2010. As the applicant had more than 25 years of service, she submitted a request to grant her minimum pension. The applicant had a shortage of 5 months to complete 10 years as a Group-D employee and hence the respondents rejected her request as per Annexure A6 letter dated 7.6.2010. Aggrieved by the above order, the applicant approached the Tribunal by filing OA No.977/2010. The Tribunal directed the respondents to consider relaxation of the rules under the provisions of Rule 88 of CCS (Pension) Rules. In the meanwhile, the Principal Bench of this Tribunal in OA No.749/2015 declared that 5/8th of the service rendered as GDS will be counted for reckoning service for pension. This Tribunal also, in OA No.655/2016 and OA No.840/2016, granted similar relief to those applicants. The Hon'ble High Court also upheld the orders of this Tribunal in the above OAs. Seeing the above situation, the applicant again submitted one more representation, citing the decisions of the Principal Bench of CAT and of the Hon'ble High Court, on 3.8.2019

to the 2nd respondent. The respondents rejected the above representation stating that the judicial pronouncements cited above cannot be extended to the applicant. So, the applicant has come up with the present OA.

3. The respondents appeared through Mr. Thomas Mathew Nellimoottil, Sr.PCGC and filed a detailed reply statement against the averments made in the original application. He mainly relied on the latest ruling of the Hon'ble Supreme Court on the subject in Civil Appeal No.8497/2019 wherein the Apex Court overruled the earlier decisions of the Tribunal and held that the GDS service cannot be tagged with Group-D service for granting pension. He produced a copy of the judgment along with the reply.

4. We have carefully gone through the decision of the Apex Court in ***Union of India & Ors vs. Gandiba Behera*** case (Civil Appeal No.8497/2019 and connected cases, arising out of SLP(C) No.13042 of 2014). The Hon'ble Supreme Court has held that "*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. We are also of the opinion that the authorities ought to consider their cases for exercising the power to relax the mandatory requirement of qualifying service under the 1972 Rules if they find the conditions contained in Rule 88 stand fulfilled in any of these cases.*"

5. From the above, it can be seen that the Hon'ble Supreme Court has clearly laid down that the period spent as GDS/EDA cannot be tagged with the service rendered as a Group-D in the postal department for getting qualifying service. In view of the Apex Court verdict, there is no further scope in considering the present OA on merit. The applicant can very well approach the respondents for relaxing the mandatory requirement under Rule 88 of the Pension Rules as stated by the Hon'ble

Apex Court.

6. We find that the OA is devoid of merit and it is dismissed. No order as to costs.

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

aa.

Annexures filed by the applicant:

Annexure A-1: True copy of the Order No. AP/4-2/MISC/2019 dated 3.9.2019 issued by the Sr. A.O. of the 2nd respondent.

Annexure A-2: True copy of the Memo No. 87/80/62 dated 21.2.1983 issued by the 3rd Respondent. 4.

Annexure A-3: True copy of the Memo No. 87/80/62 dated 31.8.1983 issued by the 3rd respondent.

Annexure A-4: True copy of the Memo No. B-4/10-2000 dated 12.10.2000 of the 3rd respondent.

Annexure A-5: True copy of the Memo No. GL/2 dated 16.10.2000 issued by the ASP.

Annexure A-6: True copy of the Letter No. A&P/13-28/2009 dated 7.6.2010 of the A.O. of the PMG Central region.

Annexure A-7: True copy of the order dated 9.8.2012 of this Tribunal in OA No. 666/2010 & connected cases.

Annexure A-8: True copy of the Order No. 99-76/2012-Pen dated 23.11.2012 of ADG (Pension) of the 1st respondent.

Annexure A-9: True copy of the order dated 30.7.2018 of this Tribunal in O.A. No. 655/2016 & 840/2016.

Annexure A-10: True copy of the judgment dated 3.6.2019 of the Hon'ble Court in OP (CAT) No. 137/2019.

Annexure A-11: True copy of the representation dated 3.8.2019 submitted before the 2nd respondent.

Annexure A-12: True copy of the Letter No. Ekm CCC/RTI/1097/2017 dated 16.1.2018 issued by the 3rd respondent.

Annexures filed by the respondents:

Annexure R-1: True copy of judgment dated 08.11.2019 in Civil Appeal. No. 8497/2019 & connected cases.

Annexure R-2: True copy of the common judgment dated 08.08.2019 in Original Application No. 18 / 2018 filed by K.A Antoo & 16 other connected cases.

Annexure R-3: True copy of Rule 6 in Gramin Dak Sevaks (Conduct & Engagement) Rules, 2011.

Annexure R-4: True copy of judgment dated 12.08.2016 in the case 2 of Y. Najithamol& Ors Vs Soumya.S.D& Ors in CA No. 90/2015.

Annexure R-5: True copy of order dated 11.01.2013 of the Tribunal in O.A.No.869/12.

Annexure R-6: True copy of order dated 22.12.2017 of this Tribunal in OA No.993/2015 filed by K.K.Rajan.

Annexure R-7: True copy of order dated 16.3.2018 of this Tribunal in OA No.249/2017 filed by Riji K.G. & Ors.

Annexure R-8: True copy of judgment dated 19.09.2017 in OP(CAT)No. 7 3212/2012 filed by A. Anirudhan.

Annexure R-9: True copy of judgment dated 15.03.2019 of the Hon'ble Apex Court in C.A. No: 3150/2019.

Annexure R-10: True copy of common order dated 22.11.2016 in O.P. (CAT) No: 327/2016 & 12 other cases.