

**Central Administrative Tribunal
Ernakulam Bench**

OA 180/00830/2018

Tuesday, this the 22nd day of December, 2020

CORAM

Hon'ble Mr.P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

1. R.Balachandran Nair, Aged 58 years,
S/o Ramachandran Nair
Postman,Thucaud, Thiruvananthapuram-695 014.
R/o "Cherukara", T C 7/1541(12) JNRA 20,
Vettamukku, Thirumala PO,
Thiruvananthapuram -695 006.
2. C. Shaji, Aged 58 years,
S/o Chellappan,
Postman, Nemom P.O.,
Thiruvananthapuram -695 020.
R/o Akhil Bhavan, Peringanmala, Kalliyoor. P.O.,
Thiruvananthapuram-695 542.
3. D.Watson, Aged 58 years,
S/o M.Dasan
Postman,Thucaud, Thiruvananthapuram-695 014.
R/o Premvihar, Nadukani, Kattakada P.O.,
Kattakada, Thiruvananthapuram-695 572.
4. K. Madhusoodhanan Pillai, Aged 58 years,
S/o Kolappa Pillai
Postman, Poojappura, Thiruvananthapuram-695 012
R/o Sreevalsam, Near Govt. VHSS, Arynadu P.O.,
Aryanadu, Thiruvananthapuram-695 542.
5. C. Ramachandran, Aged 54 years,
S/o Chellappan Panicker,
Postman, Thycaud, Thiruvananthapuram-695 014.
R/o Binitha Bhavan, Maruthummoodu,
Neyyardam P.O., Thiruvananthapuram-695 572
6. Jayakumaran.B, Aged 57 years,
S/o Bhaskaran Pillai
Postman, Industrial Estate,
Pappanamcode-695 018.
R/o Kaniyam Vilakathuveedu ,
Vilavoorkal Malayinkil P.O.,
Thiruvananthapuram-695 571.

7. M. Asharaf, Aged 54 years,
S/o A. Muhammed Haneefa
Postman, Thycaud, Thiruvananthapuram-695 014.
R/o Arafa, T.C 18/1893, Sree Hills ,Thirumala.P.O.,
Thiruvananthapuram -695 006

Applicants

(Advocate: Mr. B.Harish Kumar)

versus

1. Union of India
represented by its Secretary
Ministry of Communications
New Delhi - 110 011.
2. The Superintendent of Post Offices,
Thiruvananthapuram South Division,
Thiruvananthapuram-695 001.
3. The Chief Post Master General
Kerala Circle
Thiruvananthapuram-695 001.

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:

ORDER**By P.Madhavan, Judicial Member**

This is an OA filed seeking the following reliefs:

- (i) *Declare that the inaction of the respondents to sanction pension to the applicants are illegal and that the applicants are entitled pension, in the light of the law espoused in Vinod Saxena Vs. Union of India and others and order in OA No.35/2011.*
- (ii) *Direct the respondents to sanction and disburse the pension to the applicant, reckoning the entire serviced as GDS with effect from the date of superannuation.*

2. The applicants are working as Postman in the Department of Posts and they are going to retire shortly. They are aggrieved by Annexure A2, wherein it is stated that their services as GDS will not be considered for the purpose of pension. The facts of the case are as follows:

3. The applicants in this case were appointed as Gramin Dak Sevak at various places and thereafter appointed as Postman on various dates. It is the contention of the applicants that they were promoted to the post of postman and they are entitled to count their service as GDS for the purpose of granting pension. Even though they have completed a substantial period in the postal department, they are not entitled to get the benefit of pension since they lack the minimum qualifying service. They mainly rely upon various decisions of the Principal Bench and other benches of the Tribunal permitting the GDS service also to be counted.

4. The respondents filed a detailed reply stating that the applicants are not entitled to count their service as GDS for the purpose of granting pension. All the applicants were selected to the cadre of postman through departmental competitive examination and their posting as Postman/MTS cannot be considered as promotion. So GDS service cannot be considered for service in the group-D category. They also pointed out a recent decision of the Hon'ble Supreme Court in ***Gandiba Behera*** case. It was laid by the Hon'ble Supreme Court that there is no provision for considering the GDS service for pension.

5. We have carefully gone through the decision of the Apex Court in ***Union of India & Ors vs. Gandiba Behera (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.*”

6. 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 applicants can very well approach the respondents for relaxing the mandatory requirement under Rule 88 of Central Civil Service (Pension) Rules, as stated by the Hon'ble Apex Court.

7. So, 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 applicants:

- Annexure A1: True copy of the BIC/Seniority List issued by the 2nd respondent dated 21.12.05.
- Annexure A2: True copy of the gradation list issued by the 2nd respondent dated 1.7.17.
- Annexure A3: True copy of the judgment in OA No.35/11 of this Tribunal.

Annexures filed by respondents:

- Annexure R1: True copy of Notification No. 5/7/2003-ECB & PR dated 22.12.2003.
- Annexure R2: True copy of the order of this Tribunal dated 28-02-2019 in OA 39/2017 and two connected cases
- Annexure R3: True copy of the order of this Tribunal dated 18.03.2014 in OA No. 1191/2012 filed by Shri. T.T. Parameswaran.
- Annexure R4: True Copy of the order of this Tribunal dated 05.08.2014 in OA No. 151/2013 filed by Shri. K.N. Rajan.
- Annexure R5: True Copy of the order of this Tribunal dated 28.01.2019 in OA 179/2016 filed by Surendran Nair.S.
- Annexure R6: True copy of the judgment in SLP(C) No. 7627/2019.
- Annexure R7: True copy of MHA Notification No. SRO 609 dated 28.02.1957.
- Annexure R8: True copy of judgment of the Supreme Court in Y.Najithamol & Ors Vs Soumya S.D & Ors dated 12.08.2016 in C.A No. 90 of 2015.