

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00535/2016

Friday, this the 8th day of October, 2021

CORAM:

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

N.M. Mathai, Postman, Balaramapuram Post Office,
 Thiruvananthapuram – 695 501, residing at Neeriyanikal,
 Mayam PO, Vellarada via, Thiruvananthapuram-
 695 505. **Applicant**

(By Advocate : Mr. Vishnu S. Chempazhanthiyil)

V e r s u s

1. The Superintendent of Post offices,
 Thiruvananthapuram South Postal Division,
 Thiruvananthapuram – 695 036.
2. The Chief Postmaster General, Kerala Postal Circle,
 Thiruvananthapuram – 695 033.
3. Union of India, represented by the Secretary &
 Director General, Department of Posts, Dak Bhavan,
 New Delhi – 110 001. **Respondents**

(By Advocate : Mr. E.N. Hari Menon, ACGSC)

This application having been heard on 05.10.2021 through video conferencing, the Tribunal on 08.10.2021 delivered the following:

O R D E R

Hon'ble Mr. P. Madhavan, Judicial Member –

This is an Original Application filed by the applicant seeking the following reliefs:

“1. Direct the respondents to consider granting pay fixation benefits on the basis of Annexure A4 recommendations of the DPC and grant all consequential benefits to the applicant w.e.f. 1.9.2005.

2. *Direct the respondents to consider the applicant against available vacancies of 2002 and 2003 and consequently bring the applicant under the Pension Scheme in force prior to 1.1.2004.*

3. *Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.*

4. *Award the cost of these proceedings.”*

2. The case of the applicant in short is as follows:

According to the applicant he was appointed as a Postman in Trivandrum South Postal Division with effect from 19.7.2007 and according to him his junior one Shri Ramachandran Nair who was at serial No. 134 was granted posting as Group-D with effect from 25.9.2008 which was later modified by review DPC w.e.f. 1.5.2006. In other words applicant's junior stole a march over him. According to him there existed vacancies in 2002 and 2003 and the applicant could have been posted in any such vacancies. This would have enabled him to get covered under the old pension scheme which was in force prior to 1.1.2004. Even though the applicant has raised his objections, no action was taken by the respondents. So he has filed the OA claiming the above reliefs.

3. The respondents entered appearance and filed a detailed objection admitting the service of the applicant. According to them the applicant was initially engaged as Gramin Dak Sevak Mail Deliverer with effect from 20.3.1978. Thereafter the applicant was appointed as a Postman w.e.f. 19.7.2007 on the basis of a Limited Departmental Competitive Examination in the cadre of Postman. In the meanwhile OA No. 248 of 2012 was filed by one B. Babukuttan Nair an MTS praying for his notional appointment in the

vacancies of the year 2002 and 2003. The said OA was disposed of by a common order along with other similar cases on 23.5.2013 directing the respondents to grant notional appointment to the applicants therein from 2002 onwards on the basis of their seniority and the actual pay should be from the date they held the post as Group-D. The respondents convened a review DPC on 10.2.2014 and the vacancies from 2002 to 2009 including the vacancies which were abolished earlier were considered for being filled up by eligible GDS officials on the basis of their seniority. Accordingly, the applicant herein was also considered against the vacancies which arose on 1.9.2005 by virtue of his seniority position and he was granted appointment from that date onwards. One of his junior Shri C. Ramachandran who was earlier appointed as Group-D w.e.f. 16.7.2008, his case was again reviewed by the DPC on the basis of directions in OA No. 263 of 2006 and he was granted notional appointment with effect from 1.5.2006. Since the applicant was already appointed as Postman with effect from 17.7.2007 no order was issued in respect of Group-D /MTS appointment. The applicant in this case was considered against the vacancy which arose on 1.9.2005 and hence he cannot come within the old pension scheme. The applicant was granted notional appointment w.e.f. 1.9.2005 and his junior Shri C. Ramachandran was appointed with effect from 1.5.2006 only. So there is no case of overlooking as alleged by the applicant. All the vacancies of 2002 to 2003 were filled up and the review DPC considered vacancies up to 2009 and orders were issued on the basis of the said review DPC. There were no vacancies available in the year 2002 and 2003 as claimed by the applicant. The review DPC was called in compliance with the direction of the Tribunal

and notional appointments were made from 2002 onwards.

4. When the matter came up for consideration the learned counsel for the applicant would contend that the only claim put forward by the applicant is that he should have been given notional appointment with effect from 2002 or 2003 onwards as there existed vacancies. But on going through the reply filed by the respondents we find that there were no vacancies for the years 2002 and 2003 and the applicant was granted appointment on the basis of the vacancy which arose on 1.9.2005. The new pension scheme was introduced with effect from 1.1.2004 and the applicant will not come within the purview of the old pension scheme. The case of ***Union of India & Ors. v. Gandiba Behera*** - Civil Appeal No. 8497 of 2019 dated 8.11.2019 has no application in this case. The applicant is not entitled to get any monetary benefits as claimed by him. We also find that the applicant is not entitled to get any benefits under the old pension scheme.

5. In view of the above, the Original Application lacks merit and it is accordingly, dismissed. No order as to costs.

(K.V. EAPEN)
ADMINISTRATIVE MEMBER

(P. MADHAVAN)
JUDICIAL MEMBER

“SA”

Original Application No. 180/00535/2016**APPLICANT'S ANNEXURES**

Annexure A1 – True copy of appointment order vide memo No. Bd/Rectt/Postman/2005 dated 17.7.2007 issued by the 1st respondent.

Annexure A2 – True copy of the seniority list of ED agents in South Postal Division (relevant portion).

Annexure A3 – True copy of relevant portion of the list circulated vide No. BIC/GL dated 14.8.2002 issued by the office the 1st respondent.

Annexure A4 – True copy of the minutes of the Review DPC held on 10.2.2014.

Annexure A5 – True copy of the communication No. B4/Rectt/GL/TV(S) dated 1.4.2015 issued by the 1st respondent.

Annexure A6 – True copy of representation dated 15.2.2016, to the 1st respondent.

RESPONDENTS' ANNEXURES

Annexure R1 – True copy of common order dated 23.5.2013 of Hon'ble CAT Ernakulam Bench in OA 455/2012 and two other cases.

Annexure R2 – True copy of details of notional appointment recommended by the review DPC from 2002 to 2009.

Annexure R3 – True copy of the order dated 15.6.2015 of the Hn'ble CAT in CP © 125/2013 in OA No. 248/2012 filed by Sri. S. Babukuttan Nair.