CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA. 350/26/2021 Date of order: 14.01.2021

Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. Tarun Shridhar, Administrative Member

Shri Pradip Kumar Kabiraj, son of Shri Ratan Kabiraj, aged about 50 years, residing at Vill- Marichya and Post Office- Dandipur, Dist- Paschim Midnapore, Pin-721222 and working to post office under Midnapore Head Post Office in the Midnapore Division under the Senior Superintendent of Post Offices, Midnapore Division, Midnapore.

................Applicant.

-vs-

1. Union of India, service through the Secretary, Government of India, Ministry of Communication & Information Technology, Department of Posts, 20, Sanchar Bhawan, Ashoka Road, New Delhi- 110001.

2. The Chief Post Master General, West Bengal Circle, Yogayog Bhawan, C.R. Avenue, Kolkata- 700012.

3. The Post Master General, South Bengal Region, Yogayog Bhawan, Kolkata- 700012.

4. The Additional Director of Postal Services, West Bengal Circle, South Bengal Region, Yogayog Bhawan, C. R. Avenue, Kolkata- 700012.

5. The Senior Superintendent of Post Offices, Midnapore Division, Midnapore, Pin- 721101.

................Respondents.

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Mr. S. Paul, Counsel

O R D E R (Oral)

Per Ms. Bidisha Banerjee, JM:

Heard both.

2. This O.A 26/2021 has been preferred to seek the following relief:

> *"8(a) To quash and/or set aside the impugned office order dated 27.10.2020 issued by the Sr. Superintendent of Post Offices, Midnapore Division, Midnapore being Annexure A-7 of this original application whereby and whereunder the claim of the applicant regarding the benefit of Old Pension Scheme has been rejected by passing a cryptic order by not considering the fact that the applicant was selected for the post of Postman in terms of the notification 2002 and because of latches on the part of the respondent authority for issuing appointment order at later date is not a ground for rejection of the benefit of Old Pension Scheme in the light of the decision of the Division Bench of the Hon'ble High Court of Delhi at New Delhi in WP (C) No. 2010/2016 being Annexure A-8 of this original application.*
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> *(b) To pass an appropriate order directing upon the respondent authority to extend the benefit of Old Pension Scheme under CCS (Pension) Rules, 1972 in terms of the para 18 of the order passed by the Division Bench of the Hon'ble High Court of Delhi at New Delhi in WP (C) No. 2010/2016 in the case of Inspector Rajendra Singh- vs- Union of India & Ors. and to declare that the applicant is entitled for the benefit of Old Pension Scheme as per the CCS (Pension) Rules, 1972 as because the applicant was selected in terms of the notification issued by the department being notification vide memo no. B-25/Department/Postman Exam/2002, therefore, being a selected and successful candidate he got the appointment in terms of said notification which is much before the cut-off date for giving benefit of Old Pension Scheme along with all consequential benefit."*

3. On the last occasion respondents were directed to clarify why the order as contained in Annexure A-7 of the OA would not be quashed as evidently it is a cryptic order which does not reflect the actual reason why the applicant was found ineligible of benefits in terms of OM dated 17.02.2020 and various pronouncements.

4. Upon instructions, ld. Counsel for respondent would submit that the authorities could not consider in the light of such OM as the applicant failed to mention the details and the decision which he wished to rely upon, in his representation dated 15.05.2020

5. The applicant asserts that he has a right to be conferred with the benefits of the old pension scheme in terms of para 3 sub para (iii) of OM dated 17.02.2020 and the order under challenge is not a speaking order, ld. Counsel would seek quashing of the same.

6. Ld. Counsel for applicant also submits that the selection was held before 01.01.2004 and that some of the incumbents from the said selection were even granted appointment before 01.01.2004. As such, they have been allowed to reap benefit of old pension scheme. Since the applicant was appointed after 01.01.2004, albeit from the same selection, he has been governed by New Pension Scheme, which is highly discriminatory.

7. In view of such, we quash the speaking order and remand back the matter to the Sr. Superintendent of Post Offices to examine the grievance of the applicant in the light of OM dated 17.02.2020 and several decisions rendered by this Tribunal and affirmed in the higher fora and issue appropriate order within a period of 3 months from the date of communication of this order. For the purpose, applicant shall forward ~~the~~ copies of all the decisions along with this order to the said respondent.

8. While considering his claim, the Sr. SPO shall specifically examine whether the present applicant stand on the same footing as the petitioners/applicants in the cited OAs, whether he deserves benefit of para 3 sub para (iii) of OM dated 17.02.2020 and is legally entitled to be governed by the Old Pension Rule.

9. Thus, the OA would stand disposed of. No costs.

(Tarun Shridhar)
Member (A)

(Bidisha Banerjee)
Member (J)

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