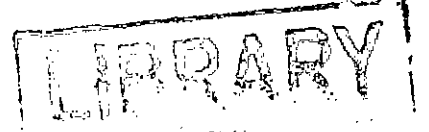


**CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA**



O.A/350/361/2019

Date of Order: 11.08.2021

**Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member**

Hrishikesh Mandal, Son of Late Balaram Mandal, by faith Hindu, by occupation Service, aged about 59 years, residing at Village-Balibarh, Post Office-Gopinathpur, District- Purba Medinipur, West Bengal, Pin Code-721633.

Petitioner / Applicant

vs



1. Union of India service through the Secretary, Ministry of Communication and Information Technology, Department of Post, Dak Bhaban, Sangshad Marg, New Delhi-110001.

2. The Chief Post Master General, Department of Post, Yogayog Bhaban, C.R. Avenue, Kolkata- 700012.

3. The Post Master General, South Bengal Region, Department of Post, Yogayog Bhaban, C.R. Avenue, Kolkata 700012.

4. The Senior Superintendent of Post Offices, Tamluk Division, Tamluk, Purba Medinipore, 721636.

--Respondents

For The Applicant(s): Mr. A. Chakraborty, counsel  
Ms. P.Mondal, counsel

For The Respondent(s): Mr. S. Paul, counsel

**ORDER (O R A L)**

Per: Ms. Bidisha Banerjee, Member (J):

Heard ld. counsel for both sides at length.

2. This application has been preferred to seek the following reliefs:

"A) An Order do issue directing the respondents to act and proceed in accordance with the law.

B) An Order do issue directing the respondents to extend the benefit of the Old pension Scheme in favour of the applicant under the Central Civil Services(Pension) Rules, 1972 and to grant all consequential benefit thereto.

C) Certify and transmit the entire records and papers pertaining to the applicant's case so that after the causes shown thereof conscionable justice may be done unto the applicant by way of grant of reliefs as prayed for in (a) and (b), above.

D) Costs.

E) Such further order or orders, Direction or Direction as Your Lordships may deem fit and proper."

3. The facts of the case as placed by ld. counsel for the applicant are that;

The petitioner was initially appointed as GDSMD on 14.12.1979.

That, against the vacancy for the post of Post man for the year 2001 the case of the applicant was considered and the examination to the said effect was conducted by the respondent authorities on 15.12.2002 at Tamluk in which was declared suitable vide office order dated 30.10.2003 by the respondent No. 3 and thereafter by the respondent No. 4. Vide Office Order dated 26.12.2003. That after a further delay of near about 15 months, the applicant was finally issued with the letter of appointment to the post of Post man at Mahisadal with effect from 13.03.2004. The applicant was subjected to New Pension Scheme since for the delay in appointing the applicant in the post of Post man, the applicant was denied the benefit of Old Pension Scheme under the CCS (Pension) Rules, 1972.

Ld. Counsel further submits that, a similar issue came up for consideration before the Hon'ble High Court at Delhi and in the said Writ petition the benefit of Old pension Scheme under the CCS (Pension) Rules, 1972 had been extended by the Hon'ble Court to the applicants, challenging the said order and judgment dated 27.03.2017, the Union of India went up before the Hon'ble Supreme Court by filing one Special Leave Petition (Civil) which was dismissed by the Hon'ble Court vide Order dated 08.01.2018. That, thereafter the applicant preferred a detailed representation dated 25.02.2019 (Annexure A-3 to the O.A)



before the competent respondent authorities to extend him with the benefit at an earliest, but has elicited no reply. Being aggrieved, he has preferred this application.

4. Ld. counsel for the applicant would submit that the O.A may be disposed of with a direction upon the respondents to consider the representation dated 25.02.2019 (Annexure A-3 to the O.A) in the light of the DOPT O.M dated 17.02.2020 whereby and whereunder it has been clarified that employees who joined after 01.01.2004 against vacancies declared before 1.1.2004 are eligible to opt for old pension scheme.



5. Ld. counsel for the applicant would canvass that the vacancies arose/occurred in 2002 and therefore the O.M referred supra, would squarely apply to the present facts and situation.

6. Ld. counsel for the respondents would raise no objection to the disposal of the O.A for consideration in the light of the O.M., supra.

7. Accordingly, with consent of parties we would dispose of the OA with a direction upon the competent authority to consider and decide the claim of the applicant in the light of the O.M referred supra with a reasoned and speaking order issued in accordance with law and within a period of 3 months from the date of receipt of copy of this order.

8. We would further direct that in the event if nothing else stands in the way, appropriate benefits shall be granted to the applicant by issuing orders within 1 month thereafter.

9 The OA accordingly stands disposed of. No costs.

(Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)