



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A/350/564/2021

Date of Order: 11.08.2021

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

Arun Barua, S/o Swagendra Nath Barua, working as Postman, at Burrabazar Head Office under the overall control of Chief Postmaster General, West Bengal Circle, at present residing at Narayan Pally, P.O Nimta, Durgananagar, Kolkata - 700049.

..Applicant

- Vs -

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, Govt. of India, New Delhi.

2. The Chief Post Master General, West Bengal Circle, Yogayog Bhawan, Calcutta - 700012.

3. The Senior Post Master, Burrabazar Head Post Office, Kolkata - 700007.

4. Department of Pension & Pensioners Welfare through the Secretary, Department of Pension & Pensioners Welfare, Lok Nayak Bhawan, Khan Market, Sujan Singh Park, New Delhi - 110003.

--Respondents

For The Applicant(s): Mr. C. Sinha, counsel

For The Respondent(s): Mr. K. Prasad, counsel

ORDER (O R A L)

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

Heard ld. counsel for both sides.

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

"a) To set aside and quash impugned Annexure-I of Order No. Staff/ Pension/New to Old/BB dated at Kolkata - 700007 the 25.09.2020 as regard applicant is concerned issued by the Senior Post Master Barabazar H.P.O., Kolkata - 700007.,

b) To direct the respondents to modify and/or amend Office Memorandum dated 17.02.2020 issued by the Department of Pension & Pensioners Welfare to the extent of inclusion of the accrual of vacancy and/or the vacancy year as an eligibility criteria to switch over from NPS to the Pension scheme in light of the judgment passed by the Hon'ble Delhi High Court in the case of Inspector Rajendra Singh &



Ors. being W.P.(C) 2810/2016 which was dismissed in terms of Order dated 08.1.2018 by the Hon'ble Supreme Court.

c) To direct the respondents to allow the applicant to switch over to the old pension scheme by treating the date of accrual of vacancy for the post of Postman as the date of appointment/ posting for the limited purpose of grant of pension under Central Civil Services (Pension) Rules, 1972 and declare the applicant as pensionable staff within the purview of Central Civil Services (Pension) Rules, 1972 by granting benefit of the judgment passed by Hon'ble Delhi High Court in W.P.(C) 2810/2016, SLP against which has been dismissed.

d) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

3. The brief facts of the case as submitted by ld. Counsel for the applicant are that, the applicant was initially appointed as Gramin Dak Sebhak on 31.12.1996 and was posted at Burrabazar Head Post Office. That, applicant appeared in the selection held on 28.12.2003 for the post of Postman against vacancies of 2003. That on being qualified in the said examination applicant underwent Training in terms of Memo dated 08.01.2005 and was appointed as Postman in scale of Rs. 3050-4590/ vide Memo dated 19.01.2005 and joined the post of Postman on 20.01.2005. Applicant submitted a representation for switching over from New Pension Scheme to Old Pension Scheme but the same was rejected vide order dated 25.09.2020 and hence this OA seeking the abovementioned relief.

4. The applicant is not declared eligible to be covered by Old Pension Scheme in view of the fact that although the vacancies arose in 2003 as admitted by the respondents in Annexure A-7 to the O.A, result was declared after 01.01.2004, therefore, in terms of DOPT O.M 17.02.2020 they are not covered by the Old Pension Scheme.

5. At hearing, Ld. Counsel for the applicant would bring to our notice a decision of the Hon'ble Apex Court in UOI Vs. Shabad Prakash Punia SLP (C) NO. 7373/2021 and submit that he would be fairly satisfied if a



direction is issued to the competent authority to consider the case of the applicant in the light of the decision in UOI Vs. Shabad Prakash Punia SLP (C) NO. 7373/2021 where it has affirmed the decision of the Hon'ble High Court of Delhi in WP 9252/2020 granting benefits under Old Pension Rules of 1972 to persons selected against vacancies of pre 01.01.2004 even where selection was completed after 01.01.2004 i.e after the effective date of New Pension Scheme.



6. Accordingly, with the consent of both the sides, we dispose of this O.A with a direction upon the competent authority to consider the case of the applicant in the light of the judgment supra, and decide the claim of the applicant in accordance with law within a period of 3 months from the date of receipt of copy of this order. In the event the applicant deserve the relief as prayed for, an appropriate order in accordance with law be issued within the said period.

7. It is made clear that we have not entered into the merits of this matter and, therefore, all points are kept open for consideration

8. This OA accordingly stands disposed of. No costs.

(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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