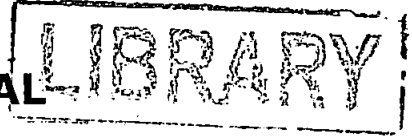


CENTRAL ADMINISTRATIVE TRIBUNAL KOLKATA BENCH, KOLKATA



O.A/350/727/2021

Date of Order: 14.09.2021

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

Tapan Kumar Sau, Son of Sri Khagendranath Sau,
aged about 54 years, working as O/S (Cash) Belda
MDG (CONTAI DIVISION), residing at Vill & P.O.
Gaita, P.S. Narayangarh, Dist - Paschim
Medinipur, Pin - 721424

.....Applicant

-VERSUS-



1. Union of India, through the Secretary. Ministry of Communication Department of Post, Dak Bhawan, New Delhi- 110001.
2. Chief Post Master General, Kolkata Region West Bengal Circle, Yogayog Bhawan, C.R.Avenue, Kolkata-700012.
3. Senior Superintendent of Post Offices, Contai Division, Purba Medinipur, Kolkata-721401.

.....Respondents

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

For The Respondent(s): Mr. A. Mondal, 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:

"i) An Order do issue directing the respondents to allow the applicant to exercise option for Old Pension Scheme under CCS (Pension) Rules, 1972 instead of NPS as he was promoted to the post of Postman from the post of GDS-BPM and since the Hon'ble Apex Court had observed that ED Agent is a Civil Post Holder.

ii) An Order do issue directing the respondents to grant the benefit of Sub para 3 of Para 7 of Office Memorandum dated 17.02.2020 issued by Department of Pension & PW, Government of India.

iii) Costs and Incidentals

iv) Such further Order/Orders and/or Direction/Directions as your Lordship may deem fit and proper."

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3. The case of the applicant in a nutshell is that he was initially working as GDS and, pursuant to a Notification dated 16.10.2003 applied for promotion to the cadre of Postman. It was notified that the selection test will be conducted on 28.12.2003. The applicant was declared successful in the said selection test and promoted to the post of Postman w.e.f. 11.04.2005. The applicant made a representation praying for exercising option of Old Pension Scheme. Memorandum dated 17.02.2020 was issued by the Government of India, Department of Pension & PW, in the subject matter of "coverage under Central Services (Pension) Rules, 1972 in place of NPS" for those Central Government Employees whose selection for appointment was finalized before 01.01.2004 but who joined Government Service after 01.01.2004. The applicant submits that as he was holding a civil post before 01.01.2004 and prior to his promotion to the post of Postman, it should be taken into account and, as such, he would be entitled to get the benefit of OPS.

However, his prayer was turned down vide impugned letter dated 04.10.2020 (Annexure-A/3), which reads as under:

"No:-C-1/NPS/Rlg/CTI

Dated at Contai-721401 the 04.10.2020.

Sub: Regarding conversion NPS to OPS.

Ref-Your application dtd.

With reference to your application it is informed that you are not entitled for conversion from NPS to OPS.

(sd/-)

**Supdt. Of Post offices
Contal Division. Contai-721401"**



4. Ld. Counsel for the applicant relies upon the latest decision of the Hon'ble Supreme Court in the case of c Hon'ble Apex Court 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.



5. A bare perusal of the letter dated 04.10.2020 (Annexure-A/3) shows that it is a non-speaking and cryptic order, hence, the same is quashed and the matter is remanded back to the respondents authorities to consider the case of the applicant and pass a reasoned and speaking order within a period of eight weeks from the date of receipt of a copy of this order keeping in mind the judgment passed in Shabad Prakash Punia supra.

It is made clear that we have not entered into the merits of the case.

6. The O.A accordingly stands disposed of. No order as to costs.



(Nandita Chatterjee)
Member (A)



(Bidisha Banerjee)
Member (J)