

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**



O.A/350/880/2018

Date of Order: 09.12.2020

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

Sri Subrata Chatterjee, son of B. Chatterjee, by faith Hindu, by occupation - working as Postman Serampore Head office, Serampore, Hooghly and residing at Police and Post-Keira Tarakeswar, Dist. Hooghly.

--Applicant

-vs-



1. Union of India through the Secretary, Ministry of Communication, Dak Bhavan, New Delhi - 110001.

2. The Chief Post Master General, West Bengal Circle, Yogayog Bhavan, Kolkata - 700012.

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

4. The Senior Superintendent of Post Offices, South Hooghly Division, Serampore, Pin code 712201.

--Respondents

For The Applicant(s): Mr. N. Roy, Counsel

For The Respondent(s): Mr. R. Halder, counsel

O R D E R (O R A L)

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

Heard ld. counsel for both parties.

2. The applicant, who joined service after 01.01.2004 and wants to be governed by the old pension scheme, has preferred this O.A to seek the following reliefs:

- "a) To issue direction upon the respondents to consider the applicant case for old pension scheme forthwith.
- b) To issue further direction upon the respondents to consider the representation dated 26.08.18 forthwith.

c) To issue further direction upon the respondents to consider the case for old pension scheme, where the same similar person, namely Sri Mrinal Chakraborty has been considered for old pension scheme, where said Sri Chakraborty has joined after 01.01.04 and his date of joining was 10.01.04. According to that, the applicant is also a same similar person his case may be considered for old pension scheme forthwith.

d) To cancel, quash, set aside order dated 09.2.18 forthwith.

e) Any other order or further order or orders as deem fit and proper under the circumstances of the case.

e) To produce Connected Departmental Record at the time of Hearing."

3. At hearing, ld. counsel for the applicant would place the DOPT OM dated 17.02.2020 on admissibility of old pension scheme to employees appointed after 01.01.04, that is after introduction of New Pension Scheme. The illustrative examples being as under:

"(i) The result for recruitment was declared before 01.01.2004 but the offer of appointment and actual joining of the Government servant was delayed on account of police verification, medical examination etc.

(ii) Some of the candidates selected through a common selection process were issued offers of appointments and were also appointed before 01.01.2004 whereas the offers of appointment to other selected candidates were issued on or after 1.1.2004 due to administrative reasons/constraints including pending court/CAT cases.

(iii) Candidates selected before 01.01.2004 through a common competitive examination were allocated to different Departments/organization. While recruitment process was completed by some Department(s)/Organization on or before 31.12.2003 in respect of one or more candidates, the offers of appointment to the candidates allocated to the other Department/organization were issued on or after 01.01.2004.

(iv) Offers of appointment to selected candidates were made before 01.01.2004 with a direction to join on or after 01.01.2004.

(v) Offers of appointment were issued to selected candidates before 01.1.2004 any many/most candidates joined service before 01.01.2004. However, some candidate(s) were allowed extension of joining time and they joined service on or after 01.01.2004. However, their seniority was either unaffected or was depressed in the same batch or to a subsequent batch, the result for which subsequent batch was declared before 01.01.2004.



(iv) The result for recruitment was declared before 01.01.2004 but one or more candidates were declared disqualified on the grounds of medical fitness or verification of character and antecedents, caste or income certificates. Subsequently, on review, they were found fit for appointment and were issued offers of appointment on or after 01.01.2004.

It has been observed that in all the above illustrative cases, since the result for recruitment was declared before 01.01.2004, denial of the benefit of pension under CCS (Pension) Rules, 1972 to the affected Government servants is not considered justified.

4. Ld. counsel for the applicant submits that the O.A may be disposed of in the light of the Department of Pensions & Pensioners Welfare 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 selection in question was of the year 2002, the vacancies arose/occurred in 2002 and therefore the O.M referred supra, would squarely apply to the present facts and situation. In support, he would place the Annexure A-6 to the O.A, which reads as under:

"In accordance with the order contained in the PMG, S.B. Region letter No. PMG (SB)/SFE/Postman/Mail-guard/Exam/2002 dtd. 03.01.05 Shri Subrata Kr. Chatterjee, GDS BPM/Samserpur B.O under Tarakeshwar S.O whose Roll No. SH-123/2002 is hereby selected for appointment as postman/South Hooghly Dn. under merit quota of vacancies in Postman cadre for the year 2002."

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. M.As also stands disposed of. No costs.



(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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