

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application Nos.105/2008

Date of decision: 14.1.2010

Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

Hon'ble Dr. K.S.Sugathan, Administrative Member.

Sh. Ghisa Singh, S/o Indra Singh by caste Rawat, aged 60 years, R/o village Piparlu, Post Dewar, Via Devgarh, District Rajsamand. Applicant retired Post of Group D EDBPM, Department of Post and Telegraph Udaipur.

: Applicant.

Rep. By Mr. Anish Ahmed & Mr. Sanjeet Purohit :
Counsel for the applicant.

Versus

1. The Union of India, through the Secretary, Department of Post and Telegraph Ministry of Communication, Government of India, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Post Master General, Rajasthan South Region, Ajmer (Ra j.)
4. The Superintendent Postal Services, Rajasthan South region, Ajmer.
5. The Sub Post Master, Udaipur Circle, Udaipur.

: Respondents.

Rep. By Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur : Counsel for the respondents.

ORDER

Per Mr. Justice S.M.M. Alam, Judicial Member.

Being aggrieved by the action of the respondent authorities refusing to grant of regular pension and other retiral benefits Shri Ghisa Singh, who was initially appointed as Extra Departmental Branch Post Master, ('EDBPM' for short) with effect from 13.07.1973 at Nardas Ka Guda in Tehsil Dev Garh, District Rajsamand and later on selected in the cadre of Group 'D' with effect

from 19./08.1999 and was made permanent w.e.f. 30.08.2001, has filed this Original Application seeking the following reliefs:

- " (i) The respondent authorities may kindly be directed to grant pensionary and other retiral benefits to the applicant while counting the services from the date of his initial appointment.
- (ii) The provisions of the EDA Conduct and Service Rules, 1964, wherein not providing for pension, gratuity and other retiral benefits to EDA employees in the respondent department and not providing for counting the past service as ED Agents, while absorption/promotion to the post of Group D, be declared ultra vires of the Constitution of India and the respondent may kindly be directed to accept and implement the recommendation of Talwar Committee Report.
- (iii) Any other Appropriate relief which this Hon'ble Tribunal deem just and proper in the facts and circumstances of the case may be passed in favour of applicant.
- (iv) The Original application of the applicant may be allowed and the cost of the O.A kindly be granted.

2. The contention of the respondents is that it is true that the applicant was appointed as EDBPM Nardas Ka Guda, Devgarh w.e.f. 13.07.1973, under the terms and conditions of Post and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964 as amended from time to time but as per Rule 4 of the above mentioned rules, ED Agents are not entitled to have any pension and hence the period spent by the applicant in service as ED BPM cannot be counted as qualifying service for pensionary benefits.

3. According to the respondents, the applicant had worked as group D employee from 30.08.1999 to 31.08.2007 (AN) and completed a net qualifying service of 7 years 11 months and 19 days. For getting pensionary benefits a minimum period 10 years has been prescribed and as such the applicant is not entitled for pension.

4. Considering the case of the parties, we are of the view that the only legal question involved in this case is whether the service

rendered by the applicant as EDBPM⁻³⁻ from 13.07.1973 to 29.08.1999 can be taken into consideration for the purpose of determining the qualifying service for the purpose of grant of pensionary benefits.

5. During the course of the arguments, the learned counsel appearing for the respondents submitted that this case is fully covered by the decision dated 26.05.2005, rendered by the Central Administrative Tribunal, Chandigarh Bench in **Surjit Singh vs UOI and ors.** – O.A. No. 1033/PB/2003. He submitted that in the light of the said decision similar order can be passed in this case.

6. At the time of arguments the learned counsel for the applicant was asked to furnish any other decision by 06.01.2010 which might have overruled the ratio decided in the decision relied by the respondents, but the learned counsel for the applicant has not produced any such decision.

7. We have minutely gone through the decision referred to above and we are of the view that the controversies involved in this case are fully covered by the decision relied upon by the respondents. A similar view has been taken by the Central Administrative Tribunal Ernakulam Bench in O.A. No. 156/2007 – **A Prakasan and ors vs. UOI and ors** – decided on 28.03.2008 (to which one of us – Dr. K. S. Sugathan was a member). The relevant portion from **Surjit Singh's** case (supra) are being reproduced as under:

" It is clear from the pleadings of the applicant that he seeks declaration of counting his entire service as EDA w.e.f. 07.07.1989 to 07.03.1994 to be counted as qualifying service for purpose of pension and if not entire service at least half of it to be so counted. A Bench of

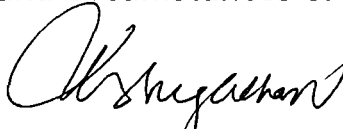
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this Tribunal in the case of Rattan Singh vs. UOI in O.A. No. 238/HP/2003 on similar circumstances and facts as pleaded by the applicant in the present case has taken a view that services rendered as Extra Departmental Agent (including EDBPM) followed by regular appointment as group 'D' cannot be reckoned for computing the qualifying service for pension. The full Bench has held that view to be correct. In these circumstances the claim made by the applicant is not tenable under the law. In the judgement in case of Rattan Singh (supra), the Bench had taken into consideration the provisions of Rule 4 of the 1964 Rules applicable to the EDAs which clearly lays down that the EDAs are not entitled to any pensionary benefits.

It appears that the above findings of the Tribunal in the case of **Surjit Singh** is based on the basis of the decision given in the case of **Rattan Singh vs. UOI** in O.A. No. 238/HP/2003 and the point of reference made in the case of **Surjit Singh** and decided by the Full Bench. It further transpires that after making thorough discussion in regard to the ratio decided in the case of **Rattan Singh**, the Tribunal concluded that In view of the findings recorded by the Full Bench and the points of law decided by and the opinion expressed by the Hon'ble Supreme Court as mentioned above, we find that his OA has no merit. Applicant cannot count any part of his service rendered as EDBPM for joining it with regular services as Group D for computing the qualifying services for pension.

8. Thus we are of the opinion that the decision referred to above by the respondents counsel fully covers the points involved in this case and we are of the view that the applicant is not entitled to count any part of his service from 13.07.1973 to 29.08.1999 rendered as EDBPM, before his selection as regular Group 'D' employee for the purpose of qualifying service for grant of pensionary benefits. We further hold that grant of pensionary benefits to an employee working as EDBPM is barred under the provisions of Rule 4 of ED Agents (

Conduct & Service) Rules 1964. Accordingly we find and hold that the applicant who has not completed the minimum qualifying service for pension as Group D employee, is not entitled to any pensionary benefits.

9. Accordingly we find that there is no merit in this Original application and as such the same is hereby dismissed. In the facts and circumstances of this case there will be no order as to costs.


{ Dr. K.S. Sugathan }
Administrative Member.


{ Justice S.M.M. Alam }
Judicial Member.

jsv

दिनांक 17/12/15 के आदेशानुसार
यैसी उपस्थिति में दिनांक 9/12/16
को भाग-II व III में लिखें।

अनुसूचक अधिकारी
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जोधपुर न्यायपीठ, जोधपुर

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