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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No.514/2011

Jodhpur this the 23rd day of October, 2013

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J),
Hon'ble Ms. Meenakshi Hooja, Member (A)

1. Jeevan Lal S/o Shri Keshav Lal, aged 40 years, R/o V.P.O. Ambada, via Khadgada, District Dungarpur (Rajasthan), (Working as GDSBPM in BO Ambada).
2. Raman Lal S/o Shri Kacharu ji Patidar, aged 45 years, R/o V.P.O., Semaliya Ghata, via Khadgada, District Dungarpur (Raj.) (Working as GDSDA/MC in SO Khadgada).
3. Daya Lal S/o Shri Hegeji Patidar, aged 58 years, R/o V.P.O. Ghotad, via Khadgada, District Dungarpur (Rajasthan), (working as GDSBPM in BO Ghaotad).
4. Nanu Ram Boonkar S/o Shri Kacharu Boonkar, aged 46 years, R/o V.P.O. Ambada, via Khadgada, District Dungarpur (Rajasthan, (working as GDSDA/BPM in BO Surajgaon).
5. Harihar S/o Shri Velji Patidar, aged 47 years, R/o V.P.O. Semaliya Ghata, via Khadgada, District Dungarpur (Rajasthan), (working as GDSBPM in BO Semalia ghata).
6. Bhagwati Shankar S/o shri Lalji Patidar, aged 48 years, R/o V.P.O. Limadi, via Khadgada, District Dungarpur (Raj.), (working as GDSBPM in BO Limadi).
7. Tajeng S/o Shri Nathji Patidar, aged 57 years, R/o V.P.O. Hadmala, via Khadgada, District Dungarpur (Rajasthan, (working as GDSBPM in BO Hadmala).
8. Doongar S/o Shri Lalji Patidar, aged 52 years, R/o V.P.O. Devada Chhota, via Khadgada, District Dungarpur (Rajasthan), (working as GDSBPM in BO Divada Chhota)
9. Shripal Jain S/o Shri Magan Lal Jain, aged 53 years, R/o V.P.O. Ghata ka Gaon, via Khadgada, District Dungarpur (Rajasthan), (working as GDSBPM in BO Ghata Ka Gaon).
10. Ram Lal S/o Shri Jeevanji Nanoma, aged 47 years, R/o V.P.O. Mewda, via Khadgada, District Dungarpur (Rajasthan), (working as GDSBPM in BO Mevada).
11. Ram Chand S/o Shri Dhulaji Bamaniya, aged 48 years, R/o V.P.O. Khadgada, Via Khadagada, District Dungarpur (Raj.) (working as GDSMC in SO Dhadagada).
12. Ajit Keshari Singh S/o Shri Raghuvir Singh Rathore, aged 39 years, R/o V.P.O. Ubali, via Chitari, District

Dungarpur (Rajasthan), (working as GDSBPM in BO Ubali).

13. Arvind Kumar S/o Shri Govanji Patidar, aged 42 years, R/o V.P.O. Bhemai, via Chitari, District Dungarpur (Rajasthan), (working as GDSBPM in BO Bhemai).
14. Devi Lal Patidar S/o Shri Mogji Patidar, aged 40 years, R/o V.P.O. Silohi, via Galiyakot, District Dungarpur (Rajasthan), (working as GDSBPM in BO Silohi).
15. Raman Lal S/o Shri Thobji Patidar, aged 54 years, R/o V.P.O. Vander Ved, via Bhiluda, District Dungarpur (Rajasthan), (working as GDSBPM in BO Vander Ved).
16. Hari Lal S/o Shri Kuhaga Damor, aged 54 years, R/o V.P.O. Kesariya, via Chitari, District Dungarpur (Rajasthan), (working as GDSBPM in BO Dasariya).
17. Kanakmal S/o Shri Nagji Patidar, aged 62 years, R/o V.P.O. Chadoli, via Khadagada, District Dungarpur (Rajasthan), (working as GDSBPM in BO Chadoli).
18. Chhagan Lal S/o Shri Mangal Ji Kalal, aged 57 years, by caste Kalal, R/o V.P.O. Baliya, via Dhambola, District Dungarpur (Rajasthan), (working as BPM in BO Bansia).
19. Kishore Singh S/o Shri Laxman Singh, aged 54 years, R/o V.P.O. Bedla via Dhambola, District Dungarpur (Rajasthan), (working as BPM in Dhambola).
20. Goverdhan Lal S/o Shri Jhuraji Patidar, aged 57 years, R/o V.P.O. Bodamali, via Dhambola, District Dungarpur (Rajasthan), (working as BPM in Karawara Dhambola).
21. Suresh Chand Soni S/o Shri Mohan Lalji Soni, aged 42 years, R/o V.P.O. Padra, via Padwat Sagwada, District Dungarpur (Rajasthan), (working as BPM in Padra).
22. Natha Lal Rot S/o Shri Somaji Rot, aged 47 years, R/o V.P.O. Vardha, via Thakarda, District Dungarpur (Rajasthan), (working as EDDA/MC in Bagora).
23. Rajendra Prasad S/o Shri Amrit Lal Ji, aged 37 years, R/o V.P.O. Gamadi Deoki, via Padwat Sagwada, District Dungarpur (Rajasthan), (working as ED BPM).
24. Vasu Dev S/o Shri Wellji Patidar, aged 36 years, by caste Patidar, R/o V.P.O. Bhasor, District Dungarpur (Raj.) (working as GDS).
25. Hari Singh S/o Devi Singh Shaktawat, aged 59 years, R/o V.P.O. Samaliya So Khamera, District Pratapgarh (Rajasthan) (working as ED BPM in HO Banswara).
26. Dhool Chand S/o shri Kacharu ji Nanoma, aged 58 years, R/o village Lemboda Post Sodalpur, District Pratapgarh (Rajasthan) (working as ED BPM in SO Khamera).
27. Prabhu Lal S/o shri Nahar Ji Nanoma, aged 48 years, R/o village Mundi Kheda, Post Sodalpur, District Pratapgarh (Rajasthan) (working as ED DA in SO Khamera).
28. Govind Sharma S/o Shri Amba Lal Ji Sharma, aged 42 years, R/o V.P.O. Ghantali Via Khamera, District Pratapgarh (Rajasthan) (working as ED BPM in SO Banswara).

29. Mangi Lal S/o shri Nagji Nanoma, aged 51 years, R/o V.P.O. Ghantali, via Khamera, District Pratapgarh (Rajasthan) (working as ED DA in BO Ghantali).

30. Kalu Ram S/o Shri Bhanji Murda, aged 52 years, R/o village Piplada, Post Nayan, District Pratapgarh (Rajasthan) (working as ED BPM in BO Nayan).

.....Applicants

Mr. S.P.Sharma, counsel for applicant.

Versus

1. Union of India, through the Secretary, Ministry of Telecommunication, Department of Post, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Post Master General, Southern Region, Ajmer.
4. Superintendent of Post Office, Dungarpur Division, Dungarpur.

.....Respondents

Smt.K. Parveen, counsel for respondents.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

The applicants have jointly filed this OA under Section 19 of the Administrative Tribunals Act, 1985 for seeking the following reliefs:-

- (i) *The respondents may be directed to regularize the services of the applicants on the ground D posts and grant all the consequential benefits to the applicant at par group D employees.*
- (ii) *The provisions of Rule 6 of Rules 2001 (Annexure-A/1) may be declared ultra virus or struck down to the extent it is debarring/ disentitling the applicants from getting the pension.*
- (iii) *In alternate the respondents may be directed to consider the case of the applicants a fresh and to take decision in the matter expeditiously.*
- (iv) *Any other relief which this Hon'ble Tribunal deems just and proper in favour of the applicants may be passed."*

2. The short facts of the case as averred by the applicants are that this OA is not being made against any written order but being preferred for seeking direction to the respondents to regularize the services of the applicant on the Group D posts and grant

consequential benefits as admissible to the regular Group D employees. It has been further averred that this OA has been made jointly since the subject matter and the relief prayed by the applicants is identical and similar. The applicants are working under the respondent as Gramin Dak Sevak (GDS) w.e.f. their initial date of appointment, which was given to them after undergoing the due selection process provided under the rules of 1965/2001 and they are having the services between 5 to 20 years as Gramin Dak Sevaks. It has been further averred that earlier the applicants were known as Extraordinary Departmental Agent (Ed Agent), when the rules of 1965 were prevailing and thereafter the rules of 1965 were also repelled by the Rules of 2001, wherein the posts were designated as Gramin Dak Sevak (GDS), which have been further replaced by new Rules of 2011. Other similar employees after retirement or attaining the age of superannuation are entitled for the various kinds of terminal / retiral benefits like pension, DCRG, gratuity etc., but in the case of applicants who are working on the post of ED /GDS agents, that is being denied to them and the same amounts to no sufficient /old age security to them. It has been further averred that the Government did not accept the recommendation No.21 of the Talwar Committee relating to the security/pension and other retiral benefits and contrary to that the Rule No.6 in the Rules of 2001 has been inserted wherein the provisions have been made that the Sevaks will not be entitled to any pension. Therefore, in these circumstances, the applicants being aggrieved of non-grant of

pension and non-regularizing of the services on the Group D Posts have also assailed the validity of the rules 6 of Rules of 2001.

3. The grounds taken in the OA are that though the applicants have worked for so many years, their services are not being regularized and the directions of the Hon'ble Apex court in the case of *State of Karnataka vs. Uma Devi*, are not being followed and disentitling the applicants from the pensionary benefits is unconstitutional, unreasonable and without nexus, therefore, the Rule 6 of Rules, 2001 deserves to be struck down.

4. It has been further averred in the OA that considering the working hours of the Gramin Dak Sevak and the fact that they are discharging the duties as good as the same and identical to the duties being discharge by the Group D employees, so denial of regularization and retiral benefits is discriminatory and not sustainable in the eyes of law. Hence, the applicants by way of this application have sought the relief as mentioned in Para No.1.

5. In the reply of the respondents, it has been stated that the applicants have directly approached this Tribunal without availing the departmental channel and also have not assailed any of the order passed by the respondent authority. They further averred that no application can be entertained unless it is supported by an impugned order and in this case no order has been challenged by the applicants. Moreover, each and every applicant has separate cause of action and the same has no relation to each other. As far

as the facts are concerned, it has been stated that the Department of Post has decided to grant allowance on prorata basis, as per working hours governed with separate set of rule sand P&T ED Agents (Conduct & Service) Rules, 1964, the revised rules called the Gramin Dak Sevaks (Conduct and Employment) Rules, 2001 and now revised GDS (Conduct & Engagement) Rules, 2011. The department of Posts has a vast network specially in rural and remote areas where mostly extra departmental post offices having establishment of one or two GDS are functioning. As per Rule 3 (a) of GDS (Conduct & Engagement) Rules, 2011, these GDS would be treated as outside of civil service and they shall not claim at par with civil servant and per Rule 6 of GDS (Conduct & Engagement) Rules, 2011 these GDS shall not be entitled to any pension. Now, as per DG Instructions (1) & (2) Rule 6 of GDS (Conduct & Appointment) Rules, 2001 now 2011 ex-gratia gratuity up to maximum Rs.60,000/- and severance amount up to Rs.60,000/- will be given to GDS on their termination of service or on attaining the prescribed age. It has been further averred in the reply that that the department of Posts has also started a Service Discharge Benefit Scheme (SDBS) for Gramin Dak Sevaks (GDS) vide DG order dated 01.09.2010 w.e.f. 01.01.2011 and all the applicants except serial No.12, 16, 21, 25 and 30 are the members of this scheme, which is a substitute of pension. In this way pensionary benefits are being given under SDBS. It has been further submitted that the Hon'ble Supreme Court's judgment passed in the case of *Secretary, State of Karnataka v. Uma Devi*

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and ors, is not applicable in this case and the employees have not been above establish a legal right to be regularized or to be granted pension. The applicants have not been appointment under CCS Rules of 1965 but they have been appointed under Agent Rules of 1964 later known as GDS Rules of 2001 and now 2011. The services of the applicants are contractual in nature and in the light of DG Directions (1) & (2) and under Rule 6 of GDS Rules Of 2001, the employees after their retirement would be entitled to get ex-gratia, gratuity and severance amount according o the rules on the subject. Another Committee in the name of R.S. Natrajan was also constituted and according to its recommendation the scheme of Service Discharge benefit was introduced and according to that the department would contribute a sum of Rs.200/- per month towards pension amount of GDS employee. It has been further submitted that in the present case, the applicants No.12, 16, 21, 25 and 30 have not opted for pension scheme, and as the applicants have not been appointed CCS Rules of 1965 and their services are of contractual nature as a consequence, the applicants cannot be equated with other GDS employees of Group-D cadre who have been appointed on regular basis and therefore, they are not entitled for the relief claimed by them.

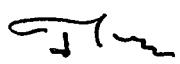
6. Heard both the parties and also perused the record. As the applicants are seeking common relief, therefore, their prayer to pursue this OA jointly is allowed.

7. Counsel for the applicants contended that matter relating to validity of Rule 6 of Postal Gramin Dak Sevak Rules, 2001 now 2011, is pending before the Hon'ble Apex Court, which the counsel for the respondents does not controvert.

8. Looking to the entire facts and circumstances of the case and also the fact that the similar issue is pending before the Hon'ble Apex Court, we are proposing to dispose of this application with certain directions.

9. Accordingly, the OA is disposed of with a direction to the applicants to file a detailed representation regarding regularization of service as well as grant of pensionary benefits to the competent authority within a month from the date of receipt of a copy of this order, and the competent authority shall decide the same within a period of six months from the date of receipt of such representation in accordance with the latest judgment of the Hon'ble High Court and any order/judgment passed by the Hon'ble Apex Court in this context. After decision of the representation, if any, grievance remains with the applicants they may file a fresh OA, if so advised.


(Meenakshi Hooja)
 Administrative Member


(Justice K.C. Joshi)
 Judicial Member