

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

ORIGINAL APPLICATION NO. 189 of 2013

CORAM Wednesday this the 7th day of October, 2015

Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member
Hon'ble Mrs. P.Gopinath, Administrative Member

Surendran.C, aged 61
S/o Raman (late), Postal Assistant, Nettur (Retired)
residing at Chathoth House, Chirakuthazhe,
Kizhunna PO, Thottada-670007.

...Applicant

(By Advocate Mrs. R. Jagada Bai)

Versus

1. Union of India, represented by the Secretary to Department of Posts, New Delhi-110 001.
2. The Director General (Posts), Dak Bhawan, New Delhi.1.
3. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.695033.
4. The Post Master General, Northern Region, Kerala Circle, Kozhikode-673011.
5. Superintendent of Post Offices, Thalassery Division,\ Thalassery-670102.

...Respondents

(By Advocate Mr. Thomas Mathew Nellimootil, SPCGC)

This application having been finally heard on 30.09.2015, the Tribunal on 07.10.2015 delivered the following:

O R D E R

Per: Justice N.K.Balakrishnan, Judicial Member

The applicant who was a Gramin Dak Sevak (GDS for short) appeared for the examination for promotion to the cadre of Postman against

the vacancy for the years 2000-2001. Annexure.A1 is the notification dated 17.7.2002. Examination was conducted on 29.9.2002 but it was cancelled. Examination was again conducted on 24.11.2002. The result of the examination was published on 25.2.2003. Two candidates were promoted w.e.f. 20.3.2003. The applicant retired from service on 31.3.2012. His request for pension under CCS (Pension) Rules was denied on the ground that the applicant did not have the required minimum service of 10 years for the eligibility for minimum pension. Thus the applicant seeks a declaration that he is entitled to be promoted notionally to the cadre of Postman w.e.f. 20.3.2003 the date on which his batch mate Shri Chandran was appointed as Postman. The second prayer is for arrears of pay and allowances for the period from 8.2.2010 to 31.3.2012. The applicant further claims that taking into consideration the service rendered by him as Gramin Dak Sevak, by making up the shortfall in service, he is entitled to get the pension under Rule 49(1) of CCS (Pension) Rules, 1972.

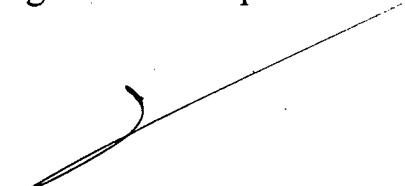
2. In the reply statement the respondents have admitted that as per the order in OA 81/2012 the applicant can be given the benfit of counting his service w.e.f. 20.3.2003, the date on which his batch mate Shri K.Chandran was selected and appointed as Postman from GDS Seniority Quota. Therefore, the first prayer sought in the OA stands allowed.

3. It is further stated in the reply statement that as directed in OA 81/2012 the respondents are wiling to pay the applicant the arrears and other

benefits for a period of three years prior to the filing of the OA 812/2012 till 31.03.2012 the date on which the applicant retired from service on superannuation. Therefore, the second prayer also stands allowed to that extent..

4. Regarding the claim for pension, it is contended by the respondents that the applicant did not have the minimum qualifying service for getting pension as per CCS (Pension) Rules, 1972. The contention raised by the applicant that the examination should have been conducted in 2000 and 2001, in which event the applicant would have been selected is too preposterous, since, in that case, the applicant will not get the required 5 years service in GDS for appearing in the examination as Postman. The applicant joined as GDS on 28.3.1996. Hence his service as on 1.1.2001 would be far less than 4 years. As on 1.1.2001 his service would be only nearly 4 years and 8 months. Therefore, it was not possible for the applicant to apply for the post of Postman since the minimum service as per Recruitment Rule is 5 years as on the 1st day of January of the particular year. Thus the applicant became eligible to appear for examination held in 2002 only. Therefore, the respondents contend that the applicant who had only 9 years of service at the time of retirement is not entitled to get pension as per CCS (Pension) Rules, 1972.

5. The only point that survives for consideration is whether the applicant is entitled to get minimum pension as per CCS (Pension) Rules,



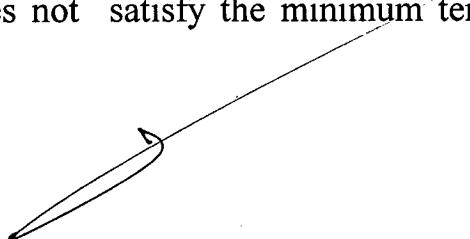
1972.

6. We have heard the learned counsel for the applicant and the respondents and have gone through the pleadings and documents.

7. Though it has been argued by the learned counsel for the applicant that had the departmental examination been conducted in 2000/and 2001 the applicant would have had the minimum service required for getting minimum pension as per CCS (Pension) Rules, 1972, we find absolutely no merit in that contention. It is too preposterous to be countenanced. It is pointed out that the applicant joined the service as GDS only on 28.3.1996. Therefore, the applicant was not eligible to appear for the examination in the year 2001 as he did not have the minimum service of 5 years. Whether there will be any unfilled vacancies of departmental quota or not can be ascertained only after conducting the examination.

8. Much has been said by the applicant that two persons had been selected earlier, but the applicant was denied promotion. But it is pointed out that only if there was an unfilled vacancy of departmental quota the applicant could be promoted. Whatever that be, since the batch mate of the applicant Shri K.Chandran was promoted w.e.f. 20.3.2003 the same benefit was given to the applicant as well.

9. The applicant has got only 9 years and 12 days as Postman and hence he cannot legally sustain his claim for pension under CCS (Pension) Rules, 1972 as he does not satisfy the minimum ten years of qualifying



service to earn minimum pension.

10. The learned counsel for applicant would submit that the service rendered by applicant as GDS should also be considered for promotion. There is no merit in that contention also, because the applicant ignored the fact that as a GDS the duty to be performed is for 2 or 3 hours a day. It is not a regular service at all. Therefore, the contention that the service rendered by him as GDS should also be counted for computing the minimum service of ten years required for grant of minimum pension under CCS (Pension) Rules, 1972 also cannot be sustained. It is true that the applicant has served as GDS for the period from 28.3.1996 to 20.3.2003. Even if 1/4th of that service is taken into consideration the applicant would satisfy the minimum period of ten years for getting minimum pension under CCS (Pension) Rules, 1972, the applicant contends. As stated earlier since the applicant was not qualified for appearing in the examination in the year 2000 and 2001 the contention that had the examination been conducted properly he would have been selected earlier has no legs to stand for the reasons already stated that the applicant did not have the minimum service of 5 years as GDS to appear in the examination for Postal Assistant. However, considering the peculiar circumstances of this case, we hold that since only less than one year is the period which falls short of for satisfying the ten years of qualifying service for pension, we find that, that can be made up of by taking certain percentage of the service as GDS. But we

make it clear that it shall not be treated as a precedent nor is it the rule. But only to meet the ends of justice we hold that the applicant must be deemed to have completed ten years of minimum service as on the date of his retirement on 31.3.2012. But we make it further clear that the applicant would be entitled to get the minimum pension only from the date of this application. In other words the applicant is not entitled to get any amount of arrears. We hold that the applicant is entitled to get the minimum pension as per CCS (Pension) Rules 1972 treating that the applicant has acquired the minimum ten years of service as on the date of his retirement. But we make it clear that it shall not be treated as a precedent.

11. O.A is disposed of with the above direction. No order as to costs.



(P.Gopianth)
Administrative Member

kspps



(N.K.Balakrishnan)
Judicial Member