

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 246/2011

Dated this the 4th day of August, 2011

CORAM

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

R.Narayanan Achary, Group-D (Retired),
Mannar P.O, R/o Chettysserithara,
Muthukulam North.

Applicant

(By Advocate Mr. Vishnu Chempazhanthiyil)

Vs.

1 The Chief Postmaster General, Department of Posts
Kerala Circle, Trivandrum.

2 Union of India represented by its Secretary
& Director General, Department of Posts,
Ministry of Communications, New Delhi.

Respondents

(By Advocate Mr.Varghese P.Thomas, ACGSC)

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant,a retired Group-D, is aggrieved by the denial of pension and other benefits flowing therefrom.

2 The applicant entered service under the respondents as Extra Departmental Agent on 20.9.1977. He was appointed as EDDA Muthukulam P.O on 1.1.1997. While working as EDDA he was promoted as Group-D on 24.2.2003. He superannuated on 27.2.2010. It is averred that though he had

nearly 26 years of service as GDS, he has only 7 years service as a regular Group-D. It submitted that the minimum qualifying service for pension is 10 years against his only 7 years of regular service for pension purpose. He further averred that in terms of Sub Rule 3 to Rule 49 of CCS (Pension) Rules, fraction of a year equal to 3 months and above shall be treated as one half year and reckoned as qualifying service. It is stated that going by the said rule, the applicant would have been granted minimum pension had he completed 9 years 9 months service. But he had fallen short of 9 years and 9 months service by 2 years and 9 months. The applicant made a request to the 1st respondent for grant of minimum pension. It is stated that he noticed that identically situated persons had been granted minimum pension taking into account his ED service. It is further stated that Govt of India, DoPT issued Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993, by which 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularisation in Group-D. No such provision is provided in the case of GDS (Conduct & Employment) Rules. Therefore discrimination has crept in while counting the GDS service for pensionary purpose. To support his claim he has referred to order dated 18.4.2002 in OA 1264/2001 passed by the Chennai Bench of the Tribunal. It is also averred that in compliance of the orders of the Madras Bench of the Tribunal, the respondents vide order dated 9.10.2009 implemented the order by taking into account the EDA period of employment of the applicant therein for minimum pension. He averred that the applicant similarly situated is also entitled for equal treatment by making up the shortfall in service by taking into account the ED service and grant pension.

3 The respondents filed reply statement. It is submitted that as per Rule 49(1) of CCS(Pension) Rules 1972, minimum service of 10 years is required to become eligible for pension. In this case the applicant he did not have the mandatory minimum service of 10 years to become eligible for

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minimum pension. The applicant was appointed as Group-D on 24.2.2003 and retired on 28.2.2010. Therefore he had only 7 years qualifying service. They further submitted that the order of the Madras Bench of the Tribunal is not a judicial decision containing the principle of *ratio decidendi*. The Tribunal directed the department to formulate a Scheme by giving weightage for certain percentage of service rendered as ED Agent (GDS) for the purpose of pension. It is submitted that the appeal preferred against the order of the Madras Bench of the Tribunal, the High Court and the Supreme Court did not discuss the point of law in their judgment, therefore, the relief allowed is confined to the facts of that particular case alone. They have referred to the subsequent order of the Hyderabad Bench of the Tribunal to support their case. They have denied any discrimination and violation of fundamental rights in this case.

4 We have heard learned counsel for the parties and perused the record.

5 The sole issue that comes up for consideration in this O.A. is whether the applicant is entitled to be granted the benefit of pension under CCS (Pension) Rules, 1972.

6 In a similar case, in O.A No.789/2010, this Tribunal by order dated 19.1.2011, P.K.Raman Vs. Union of India & Ors, held as under:

"4 We shall now go into the merits of the case. We find that the applicant has not been able to successfully convince the court that his service rendered prior to the regular appointment as an ED is liable to be counted for the purpose of minimum qualifying service for pension. Admittedly, the applicant had been appointed to work as Group-D on different spells quoted above with break. His contention that the said different spells he worked also be taken as qualifying service for getting minimum pension cannot be accepted. We have already rejected such contention in connected matters. However, this may be an aspect perhaps which the Government may consider while considering the Annexure A-5 representation made by him for relaxation in the matter of qualifying service. The power to relax is vested with the executive authority and the Court cannot grant relief on sympathetic grounds. Hence, we direct the 1st respondent to consider and dispose of the Annexure A5 representation of the applicant in accordance with law and in terms of Rule 88 of CCS (Pension) Rules, within a period of four months from the date of receipt of a copy of this order."



7 Accordingly, we follow the above order of this Bench and direct the 2nd respondent to consider and dispose of the Annexure-A8 representation of the applicant in accordance with law and in terms of Rule 88 of CCS (Pension) Rules, within a period of four months from the date of receipt of a copy of this order. The O.A stands disposed of as above. No costs. M.A No.393/2011 has become infructuous.

Dated 4th August, 2011


K. Noorjehan
Administrative Member


Dr. K.B.S.Rajan
Judicial Member

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