

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 116/2009

This the 20th day of November, 2009

Hon'ble Ms.Sadhna Srivastava, Member (J)

Radhika Prasad Yadav aged about 62 years son of Sri Jagmohan Yadav, Resident of Village and Post- Deeh, District- Sultanpur.

Applicant

By Advocate: Sri A. K. Singh.

Versus

1. Union of India through its Secretary, Department of Posts, New Delhi.
2. Chief Post Master General, Lucknow.
3. Senior Accounts Officer (Pension), Postal Accounts Office, Lucknow.
4. Superintendent of Post Offices, Sultanpur Division, Sultanpur.

Respondents

By Advocate: Sri S. P. Singh.

ORDER

Hon'ble Ms. Sadhna Srivastava, Member (J)

The applicant has been denied the benefit of pension on the ground that he has not completed 10 years of service as Group 'D' employee. Therefore, this OA.

2. The facts are that the applicant was appointed as Extra Department Delivery Agent (EDDA) at Post Office, Deeh, Distt. Sultanpur on 26.05.68. In due course, he was promoted as Group 'D' employee vide order dated 01.06.98. According to his date of birth as recorded in the service book i.e. 04.01.1997, he was retired on 31.1.2007. He was paid retrial benefits as laid down in the EDDA (Conduct and Service) Rules. He was not paid pension, reason being that pension is admissible only on completion of 10 years of service as laid down under rule 49 of CCS (Pension) Rules, 1972. The applicant feeling aggrieved filed O.A.No. 9/2008 which was decided on 15.2.2008 directing the opposite parties to decide the representation of the applicant by reasoned and speaking order. The same has been

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decided on 3.4.008 as contained in Annexure No.1. The instant O.A. has been filed to quash the same.

3. Heard the learned counsel for the parties and perused the record.

4. E.D. Agents are governed by set of Rules known as EDA (Conduct and Service)Rules. These rules provide for payment of exgratia gratuity. There is no question of payment under the said Acts. of pension. E.D. Agents on promotion to Group 'D', however, hold pensionable post. Their pension is governed by CCS (Pension) Rules, 1972. The said rules provide that the pension is not payable to those employees who have put in less than 10 years of service. The applicant has admittedly held the post of Postman for less than 10 years.

5. The arguments advanced on behalf of the applicant is that the period of service rendered by him as E.D. Agent should be treated as qualifying service for purpose of payment of pension. Reliance has been placed on the judgment of Nanak Chand Vs. Union of India and others reported in 2009 (3) CAT) AISLJ page 111 decided by the Division Bench of this Tribunal wherein it has been held as follows:-

"Considering the facts of the present case in the light of the above law and also that above said Rule 4 runs contrary to Government of India notification dated 14.5.1968 (Annexure A-8) under which half the service paid from contingencies is permissible to be counted towards pension at the time of absorption on regular basis subject to certain conditions stipulated therein, we are of the considered view that the provisions contained in Rule 4 of the P&T Extra Departmental Agents (Conduct and Service) Rules, 1972 to the effect that EDAs shall not be entitled to any pension, suffers from the vice of arbitrariness particularly when the applicant in the present case entered service as a work charged employee and was, later on, regularized against a Group 'D' post.

In view of the above discussion, we hold Rule 4 of the P&T Extra Departmental Agents (Conduct and Service) Rules, 1964 to be bad in law. Accordingly, we direct respondents No. 1 and 2 to suitably amend/ modify the same keeping in view the observations made by us hereinabove, in preceding paras of this order, by issuing



proper notification to that effect. Consequently, this O.A. is allowed. The impugned communications dated 4.12.2007 and 11.12.2007. Annexure A-1 (Collectively) are hereby quashed and set aside with a direction to respondents to consider the claim of the applicant for grant of pension and pensionary benefits, if otherwise admissible to the applicant, by counting full or half of the service rendered by him prior to regularization as a Group 'D' towards qualifying service for pension."

6. In view of the above decision of the Division Bench, I hold that the applicant shall be entitled to pension treating his qualifying service as 10 years for purpose of payment of pension.


(Ms. Sadhna Srivastava)
Member (J)

HLS/-