

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-1597/2017

Reserved on : 23.10.2018.

Pronounced on : 31.10.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Vidya Sharan Tiwari, 68 years
S/o Late Sh. G.D. Tiwari,
R/o C/o Sh. Aman Kumar,
Mahendra Singh Khoswal,
92-A, First Floor, Gali No.1,
Shakarpur Khas, Near Sanjay Park,
New Delhi-110092.

.... Applicant

(through Sh. A.K. Bhakt, Advocate)

Versus

Union of India through its

1. Secretary,
Department of Indian Posts,
O/o Secretary (Posts),
Dak Bhawan, New Delhi-110001.
2. Assistant Director (PMU),
O/o Chief Post Master General,
Meghdoor Bhawan, Patna,
(Bihar).
3. Superintendent of Post Offices,
Bettiah (West Champaran) Sub-Division,
Bihar-8456438.
4. Inspector of Post Offices,
(Department of Post),
Bettiah, East Sub-Division,
Bettiah.

.... Respondents

(through Sh. Manish Kumar, Advocate)

ORDER

Briefly stated, the applicant was appointed as Gramin Dak Seva Mail Carrier (GDPMC) on 02.04.1976 in Department of Post, Bettiah. He rendered more than 38 years of continuous service with the respondents. The applicant has submitted that his juniors and similarly situated persons, whose names are given below, have been considered for grant of temporary status and regularization while he has been discriminated in an arbitrary manner:-

- a. Sh. Kameshwar Singh, Vill. & PO Chaubetala PS Chanpatia, District West Champaran, Bihar-845449.
- b. Sh. Gauri Shankar Prasad, Vill & PO Dhamaura, District West Champaran, Bihar, 845449.
- c. Sh. Ramashankar Singh, Vill & PO Chaubeytola, PS Chanpatia, Distt. West Champaran, Bihar 845449.
- d. Sh. Tapeswar Raut, Vill & PO Chaubey Toal, PS Chanpatia, Distt. West Champaran, Bihar 845449. Etc.

2. The applicant submits that his juniors and similarly situated persons have been granted pay and allowance and all the service benefits while he has been discriminated against. Representations made in this regard have fallen on deaf ears. The applicant retired on 12.05.2014.

3. Aggrieved, the applicant has filed the current O.A. seeking the following reliefs:-

- “(i) Direct the respondent to consider the grievances of the applicant made in his representations dated 7th day of Dec. 2015, 22 Sep 2016, 10 April, 2017 and further direct the respondents to decide the representations in an appropriate reasoned and speaking order.
- (ii) Direct the respondents to consider temporary status as well as regularization to applicant from the date of his juniors and similarly situated persons of the applicant.
- (iii) Direct the respondent to produce entire relevant documents pertaining to this case before this Hon'ble Tribunal for proper adjudication.
- (iv) Allow this O.A. with Cost.”

4. In reply, the respondents have submitted that the applicant was appointed to the post of EDMC on 27.02.1976. This division came in existence on 01.07.2000. After rendering about 38 years of service, he retired on 12.05.2014. His ex-gratia and severance amount were sanctioned and paid to him in July, 2014. The employees mentioned by the applicant were promoted before creation of West Champaran Division, Bettiah except one Sh. Kameshwar Singh who was promoted in Group-D cadre in the year 2006 by this Division. At that time, the applicant was more than 50 years old and, therefore his case could not be considered by the Departmental Promotion Committee because any GDS official under category of UR could not be considered for promotion from GDS Cadre to Group-D/Postman Cadre due to his exceeding the maximum age limit of 50 years on the date of DPC. As far as seniority of the applicant as GDS vis a vis temporary status/casual labour to be considered for regularization in Group-D post is concerned, it is clarified that the two streams i.e. (i)

casual labour to temporary status to Group-D and (ii) GDS to regular Group-D cannot be compared. These two are guided under different instructions of the department. Seniority is applicable in inter se seniority in GDS and casual labour (temporary status) separately under separate identified posts.

4.1 The respondents have stated that the date of joining of the applicant is 27.02.1976 and he rendered the service in ED/GDS Cadre till his retirement. He was also granted Time Related Continuity Allowance as applicable to GDS officials, from time to time.

5. In the rejoinder filed by the applicant, the pleas taken are entirely different from the ones raised in the O.A. In the relief claimed in the O.A., the applicant has sought retiral benefits at par with his juniors and has sought temporary status as well as regularization from the date his juniors received it. In the rejoinder, the applicant is praying for payment of pension as per provisions of CCS (Pension) Rules, 1972 and to take into account his past service as GDSMC on regular service for the purpose of pension. The applicant in the rejoinder has relied upon the judgment of this Tribunal in **OA-749/2015** (Vinod Kumar Saxena & Ors. Vs. UOI & Ors.) with connected cases dated 17.11.2016.

6. During the course of hearing, the learned counsel for the applicant Sh. A.K. Bhakt relying heavily on the aforesaid judgment in the case of **Vinod Kumar Saxena** (supra) stated that the applicant should be paid pension as granted to the applicants in the relied upon OAs.

6.1 Learned counsel for the respondents reiterated the issues already raised in the counter affidavit.

7. The applicant in the O.A. has sought the grant of temporary status as well as regularization from the date his juniors and similarly situated persons got the said benefit along with retiral benefits at par with them. It is essential to examine provisions of Recruitment Rules, 2015 for Multi Tasking Staff before arriving at any conclusion. As per the Notification dated 14.05.2015, it has been laid down that:-

"The age limit for appointment of Gramin Dak Sevak shall be 50 years as on 1st April of the year of the vacancy(ies) (Relaxable for those belonging to Scheduled Castes and Scheduled Tribes upto five years and for those belonging to Other Backward Classes upto three years in accordance with the instructions issued by Government of India.)"

8. It is not disputed by the applicant that he was more than 50 years on the date of the Departmental Promotion Committee. There appears to be a clerical error since in the O.A. the applicant has mentioned that he was appointed as GDMC on 02.04.1976 whereas in the counter the respondents have stated that the applicant was appointed on 27.02.1976. In any case, the fact remains that the

applicant was appointed in 1976 when he was 27 years old. In para-4 of the counter affidavit, the respondents have clearly mentioned that he was almost 57 years old at the time of holding of the Departmental Promotion Committee and his case could not be considered under the UR category for promotion from GDS cadre to Group-D/Postman cadre due to his exceeding the maximum age limit of 50 years on the date of Departmental Promotion Committee. (These rules are available at Part-II, Sector-3(i) of the above cited (Annexure-1).) The applicant in the O.A. has already received the benefits due to him and, in my opinion, no further benefits claimed by him are admissible.

9. The judgment cited by the applicant is not relevant to the facts of the case. The O.A. being devoid of merit, is dismissed. No costs.

(Praveen Mahajan)
Member (A)

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