

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE
ORIGINAL APPLICATION No. 170/00028/2018
TODAY, THIS THE 23rd DAY OF AUGUST, 2018
HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE SHRI DINESH SHARMA, ADMINISTRATIVE MEMBER

Shri R. Wilber,
Age : 57 years,
S/o. Ruban,
Working as MTS,
Bangalore GPO : 560 001
Residing at :
No. 171, Seepings Road,
Bangalore : 560 005

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Applicant.

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Represented by Secretary,
Department of Post,
Dak Bhavan,
New Delhi – 110 001
2. Chief Postmaster General,
Karnataka Circle,
Bangalore : 560 001
3. Chief Postmaster,
Bangalore GPO,
Bangalore : 560 001

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Respondents.

(By Advocate Shri Amaresh)

ORDER

Hon'ble Shri Dinesh Sharma, Administrative Member

The request of the applicant is to grant him the benefit of old Pension Scheme as decided by the Central Administrative Tribunal, Principal Bench in O.A. No. 749/2015 alongwith O.A. No. 3540/2015 and O.A. No. 613/2015 and by Madras Bench of the Tribunal in O.A. No. 1676/2014.

2. The applicant was appointed as EDA at Bangalore GPO with effect from 13.04.1991 and was selected for promotion to the post of MTS from 21.05.2011. He was placed under the New Pension Scheme. Now he wants to be considered under the CCS Pension rules, 1972, following the aforesaid orders of the Principal Bench and Chennai Bench of the Tribunal. He has also quoted a judgement of Karnataka High Court (Circuit Bench at Gulbarga) in W.P. No. 81669/2011, decided on 17.06.2011, in support of his case.

3. The respondents in their reply have not denied the facts. They have alleged that the applicant was appointed, on regular basis, much after the New Pension Scheme was introduced. The applicant was enrolled under the New Pension Scheme and he has made monthly contributions under it from the date of his appointment. The applicant has not given any reason for the abnormal delay of five years (since his appointment) in agitating this matter. Regarding the decisions quoted by the applicant, the respondents have stated that the orders of the Principal Bench in the aforesaid cases have already been challenged before the Hon'ble High Court of Delhi by filing Writ Petitions Nos. 832, 834 and 835/2018 and these are pending adjudication. The order of the Madras Bench was only to direct the respondents to issue a speaking order keeping in mind the orders of the Principal Bench. Therefore, no reliance should be placed on the said order.

4. As regards the judgement of the Hon'ble High Court of Karnataka (Circuit Bench at Gulbarga) in Union of India through the Secretary, Department of Posts, New Delhi vs. Dattappa, the respondents have distinguished the matter on facts since the applicant was not in service before the New Pension Scheme was introduced.

5. After examining the pleadings and hearing both the sides, it is clear that the only ground on which the applicant has put his claim is the order of the Principal Bench in the cases cited above. Going by the decision of the Principal Bench, the applicant will be entitled to be considered under the CCS Pension Rules, 1972. The Madras Bench of this Tribunal has decided the case citing these orders of the Principal Bench and gave liberty to the applicants in that case to submit their representations to the respondents. Since the respondents have already challenged the aforesaid orders of the Principal Bench before the Hon'ble High Court of Delhi, and the Hon'ble High Court is yet to pronounce final orders on that Writ Petitions, it would be improper for this Bench, at this stage, to adjudicate and take any view, either in line or differing with the Principal Bench's decision in this matter. Hence the matter is disposed of directing the applicant to file a representation to the respondents within one month of this order. The respondents should pass appropriate orders within one month subject to the final outcome of the judgement of the Hon'ble High Court in the aforesaid Writ Petitions. No orders as to costs.

**(DINESH SHARMA)
ADMINISTRATIVE MEMBER**

**(DR. K.B. SURESH)
JUDICIAL MEMBER**

Cvr.

Annexures referred to by the applicant in O.A:

Annexure A-1: Copy of letter No.B2-3/176 dated 13.04.1991 of Chief Postmaster, Bangalore GPO.

Annexure A-2: Copy of letter No.B2/3/MTS/Appt/Dlgs/11-12 dt. 28.11.2011 of Chief Postmaster, Bangalore GPO.

Annexure A-3: Copy of representation of applicant dated 22.11.2017.

Annexure A-4: Copy of order dt. 17.11.2016 of CAT, Principal Bench in O.A. No. 740/2015 with O.A. Nos.3540/2015 and 613/2015.

Annexure A-5: Copy of order dated _____.01.2017 of CAT, Madras Bench, in O.A. No.1676/2014

Annexure A-6: Copy of judgement dated 17.06.2011 of Hon'ble High Court of Karnataka ((Circuit Bench at Gulbarga) in W.P. No. 81669/2011.

Annexures filed by the respondents alongwith their reply :

Annexure R-1: Copy of the Department of Posts, Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011.

Annexure R-2: Copy of Rule 2 of CCS (Pension) Rules, 1972.

Annexure R-3: Copy of Memo No. B2-3/PF/RW/2-13 dated 10.08.2012 sanctioning Rs. 30000/- as Severance amount to the applicant for the service rendered as GDSMP.

Annexure R-4: Copy of order dated 28.04.2014 of Madras Bench of the Tribunal in O.A. No. 785/2011.

Annexure R-5: Copy of order dated 02.11.2016 of Bangalore Bench of the Tribunal in O.A. No. 1651/2015.

Annexure R-6: Judgment of Hon'ble Supreme Court in CA Nos. 90/2015 and 91/2015 dated 12.08.2016.

Annexure R-7: Judgment of Hon'ble Supreme Court in CA No. 13675-13676/2015 dated 24.11.2015

Annexure R-8: Copy of Proceedings of Hon'ble Supreme Court in SLP Nos. 20757-20758/2016 dated 11.11.2016.
