

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01226/2016

Dated Tuesday the 4th day of September Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

P.R.Vijayakumar,
S/o. P.B.Ramji Singh,
No. 3-79E, Munusamy Chetty Street,
Pidamaneri,
Dharmapuri 636701.Applicant

By Advocate M/s. R. Malaichamy

Vs

1.Union of India,
rep by the Secretary,
Ministry of Personnel, Public Grievances and Pensions,
Dept of Pensions and Pensioners Welfare,
3rd floor, Lok Nayak Bhavan,
Khan Market, New Delhi 110003.

2.The Secretary,
Ministry of Communications & IT,
Dept. of Posts,
Dak Bhavan,
Sansad Marg, New Delhi 110011.

3.The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai, Chennai 600002.

4.The Postmaster General,
Western Region (TN),
Coimbatore 641001.

5.The Superintendent of Post Offices,
Dharmapuri Division,
Dharmapuri 636701.Respondents

By Advocate Mr. M. Kishore Kumar

ORAL ORDER**(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))**

Heard. The applicant has filed this OA seeking the following reliefs :

"1. To call for the records of the 5th respondent pertaining to his order which is made in No. B2/UF-18/dlgs dt. 08.07.2016 and set aside the same consequent to,

2. Direct the respondents 2 to 5 to treat the officiating service rendered as qualifying and grant minimum pension to the applicant under old pension scheme within the purview of CCS (Pension) Rules, 1972 with all retirement service benefits and

3. To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case. "

2. It is submitted that the applicant was aggrieved by Annexure A8 order dt. 08.07.2016 by which his request for grant of pension under the CCS (Pension) Rules, 1972 was rejected on the ground that his initial appointment in the Government service was with effect from 11.10.2005 ie after 01.01.2004 and, therefore, the New Pension Scheme (NPS) will be applicable to him. Learned counsel for the applicant would argue that in a similar case where the persons concerned had been appointed against 2002 or 2003 vacancies, the Tribunal had directed the authorities to grant pension under the CCS (Pension) Rules, 1972 as it was not the applicants' fault that their appointment was delayed beyond 01.01.2004. It is further submitted that the orders of this Tribunal had been upheld by the Hon'ble Madras High Court. However, SLPs theiragainst are pending in the Hon'ble Apex Court. It is further submitted that the matter of eligibility of GDS to count the GDS service for the purpose of Pension under the CCS (Pension) Rules, 1972 is also pending before the Hon'ble Apex Court in

SLP no. 16767/2016 and SLP no. 18460/2015. Accordingly, the applicant would be satisfied if the respondents are directed to review the impugned order in accordance with the law to be laid down by the Hon'ble Apex Court in the pending cases.

3. Learned counsel for the respondents would, however, submit that the applicant had not sought such relief in this OA and, therefore, the argument should be confined to treating the officiating service rendered by the applicant as qualifying for the purpose of pension under CCS (Pension) Rules, 1972. Clearly, the applicant had been appointed into Government service after 01.01.2004 and, therefore, such addition of officiating service, even if allowed would not make any difference to the rights of the applicant as he could not be covered by any scheme other than the NPS.

4. I have considered the matter. From the impugned order, it is clear that the applicant was selected against the vacancies of 2003 and 2004 and as such, it is not clear whether he was selected for the 2003 vacancy or 2004 vacancy. If it is 2003 vacancy, the ratio of previous orders passed by this Tribunal would hold unless reversed by the Hon'ble Apex Court. In such circumstances, I am of the view that this OA could be disposed of with the following direction:

"In the event of the Hon'ble Apex Court upholding the order of this Tribunal to the effect that persons appointed against pre-2004 vacancies should be considered eligible for pension under the CCS (Pension) Rules, 1972, the competent authority shall review the impugned order dt. 08.07.2016 within a

period of two months thereafter and pass fresh orders. The authority shall identify clearly whether the applicant was appointed against a 2003 vacancy or 2004 vacancy and if it is the former, he shall be treated similar to persons who had been appointed against pre-2004 vacancies. Similar action shall be taken in the event of the SLPs cited supra being decided in favour of persons similarly placed as the applicant. "

5. OA is disposed of. No costs.

(R. Ramanujam)
Member(A)
04.09.2018

SKSI