

**Central Administrative Tribunal
Madras Bench**

OA 310/01020/2018

Dated Tuesday the 31st day of July Two Thousand Eighteen

P R E S E N T

**Hon'ble Shri. R.Ramanujam, Member(A)
&
Hon'ble Shri. P. Madhavan, Member (J)**

R. Sankar
Kunnagoundanpatti
Vaiganallur SO
Kulittalai Taluk
Karur Division
Pin – 639 104.

.. Applicant

By Advocate **M/s. R. Malaichamy**

Vs.

1. Union of India
Rep. by the Secretary
Ministry of Communications and IT
Department of Posts
Dak Bhavan
Sansad Marg, New Delhi – 110 001.

2. The Chief Postmaster General
Tamil Nadu Circle
Anna Salai, Chennai 600 002.

3. The Postmaster General
Central Region (TN)
Tiruchirappalli -620 001.

4. The Superintendent of Post Offices
Karur Division
Karur – 639 001.

.. Respondents

By Advocate **Mr. K. Rajendran**

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 4th respondent pertaining to his order made in No. E/Misc dlgs dated 29.06.2018 and set aside the same, consequent to;

2. direct the respondents to count the period of year of vacancy 2002 till the applicant was appointed as Postman, the service rendered in GDS cadre and thereby to bring the service of the applicant under old pension scheme, within the purview of CCS (Pension) Rules 1972; and further

3. direct the respondents to refund the amount of subscription being recovered from his pay and allowances towards new pension scheme, and;

4. To pass such further or other orders”

2. It is submitted that the applicant is seeking pension under the CCS (Pension) Rules 1972 inter alia on the ground that he was appointed to a vacancy that had arisen in the year 2002 and the respondents were at fault in not filling up the vacancy in time. Respondents could not delay the applicant's appointment first and then take the plea that since in the interregnum, the New Pension Scheme (NPS) came into effect, the applicant would only be covered under the NPS. The respondents could not hold their own lapse to defeat the claim of the applicant. The applicant is also entitled to the benefit of various judgments by the Tribunal, High Court and the Apex Court to the effect that his services as GDS could not be ignored for the purpose of determining the eligibility to be covered by the CCS (Pension) Rules 1972, it is contended. Accordingly the applicant made Annexure

A6 representation dated 25.04.2018 which, however, was summarily rejected by Annexure A7 impugned order in terms of Rule 6 of the GDS (Conduct and Engagement) Rules 2011. As regards counting of GDS service for pension, it is stated in the impugned communication that no order had been received from the Directorate in this regard. Aggrieved by the rejection of his representation the applicant is before us.

3. Learned counsel for the applicant would submit that the applicant had made a detailed representation at Annexure A6 which the respondents ought to have considered in the light of the law laid down by the Courts in various judgments. Accordingly the applicant would be satisfied if the respondents are directed to deal with his representation dated 25.04.2018 para wise and pass a reasoned and speaking order within a time limit to be specified by this Tribunal. It is also submitted that the applicant may be permitted to supplement the said representation with additional citations and other material in his possession.

4. Mr. K. Rajendran takes notice for the respondents.

5. On perusal, it is seen that the applicant's representation has been disposed of by the 4th respondent inter alia stating that no Directorate order was received for considering GDS period for old Pension scheme. If the 4th respondent was not competent to consider the legal issues raised by the applicant in his representation, he ought to have forwarded his representation to the competent authority rather than dispose it of in this manner at his level. We are of the view that the applicant's representation deserves to be considered fairly and objectively by the competent authority. We accordingly direct that Annexure A6 representation of the

applicant dated 25.04.2018 be considered para wise and a reasoned and speaking order passed by the competent authority within a period of three months from the date of receipt of a copy of this order. The applicant is permitted to supplement his representation with additional material in his possession including citations within one week.

6. OA is disposed of with the above observations at the admission stage.

(P. Madhavan)
Member (J)
AS

31.07.2018

(R.Ramanujam)
Member(A)