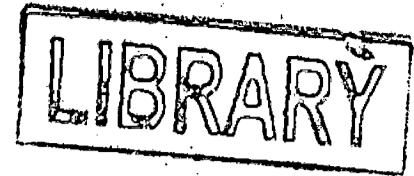


CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. O.A. 1535 of 2015

Present : Hon'ble Ms. Jasmine Ahmed, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Sri Bhramar Chandra Das,
Son of Late Satish Chandra Das,
Retired as Postman under
Bankura Division and
Residing at Vill. Bhalukbasa,
P.O. – Bhalukbasa,
Dist. – Bankura,
Pin No. – 722 121

.. Applicant

- V E R S U S -

1. Union of India,
Service through the Secretary,
Ministry of Communication,
Dept. of Post,
Dak Bhavan,
New Delhi – 110 001.
2. The Chief Post Master General,
W.B. Circle,
Yogayog Bhavan,
C.R. Avenue,
Kolkata – 700 012.
3. The Post Master General,
South Bengal Region,
Yogayog Bhavan,
Kolkata – 700 012.
4. The Senior Superintendent of Post Offices,
Bankura Division,
Bankura,
Pin – 722 101.

.. Respondents

For the Applicant : Mr. N. Roy, Counsel

For the Respondents : Ms. P. Goswami, Counsel

Heard on: 9.2.2017 Order dated : 10.2.2017

A handwritten signature in black ink, appearing to read "J. Roy".

ORDER

Per Ms. Jasmine Ahmed, Judicial Member:

Mr. N.Roy, Ld. Counsel for the applicant and Ms. P. Goswami, Ld. Counsel for the respondents is present.

2. This Original Application has been filed by the applicant under Section 19 of the Administrative Tribunal Act, 1985 praying for the following reliefs:-

- "a) To issue direction upon the respondents to grant minimum pension to the applicant forthwith.
- b) To issue further direction upon the respondents to consider the case of applicant minimum pension according to scheme has been formulated by DOPT issued O.M. dated 12.4.1991 forthwith.
- c) To issue further direction upon the respondents by giving weightage for certain percentage of service rendered as ED Agent for reckoning as a qualifying service for pension forthwith.
- d) To issue further direction upon the respondents benefit of the judgments of CAT/Madras Bench may be extended forthwith.
- e) To issue further direction upon the respondents to quash and/or cancel and/or set-aside the impugned order dated 16.6.2015 forthwith.
- f) To produce connected departmental record at the time of hearing.
- g) Any other order or orders as the Ld. Tribunal deem fit and proper."

3. The brief factual matrix of the case is that the applicant joined the respondents department as EDBPM on 25.1.1979. After that he was promoted as Postman w.e.f. 7.9.2002 and the applicant retired on 31.8.2011. On the date of superannuation the rendered period of service as Postman was 8 years 11 months and 24 days.

4. The Ld. Counsel for the applicant states that as per the Central Administrative Tribunal, Madras Bench order passed in O.A. No. 1264 of 2001 directing the department on 18.4.2002 to frame such rule as would reckon the position of service of all ED Agents to make up the shortfall of

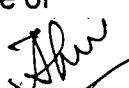


minimum period of service required for pension. The decision of CAT, Madras Bench was upheld by Hon'ble High Court at Chennai while disposing of WPCT No. 45465 of 2007 filed by the respondents. A SLP was also filed by the respondents, which was also rejected and it was directed to make the shortfall in service to the extent by taking into account the EDA period of employment. Taking into account the order passed in the O.A. No. 1264 of 2001 passed by CAT, Madras Bench and upheld upto Hon'ble Supreme Court the applicant prays that he may also be granted pension and pensionary benefits making up the shortfall in service to the extent of shortfall by taking into account the EDA period of employment.

5. The Ld. Counsel for the applicant states that in this regard he has made several representations to the authorities for grant of pension but the respondents did not pay any heed to it. O.A. No. 131 of 2012 was filed before this Bench in which the O.A. was disposed of with certain directions:-

“6. DOPT O.M. dated 12.4.1991 enjoins that 50% of the service rendered as temporary status employee will be reckoned as qualifying service for regulating the retiral benefits after regularisation against Group 'D' post. Railway and Government of India have provision of similar lines and despite a direction upon the Postal Department in M.R. Palaniswamy the department is yet to frame a scheme in accordance with the said decision. I do not find any reason in not adopting in provision under DOPT O.M. dated 12.4.1991 which can come to the aid of several of EDAs who are promoted to Group 'D' after they attain 50 years of age, in violation of the DG's letter dated 25.8.1993, which mandates that such promotion has to be accorded before completion of 50 years of age. The DOPT OM dated 12.4.1991 if adopted would entitle such EDs to count 50% of service rendered wages as EDA towards qualifying service for pension to enable several hapless Postman of our country to earn pension.

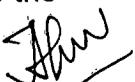
7. As the case of the applicant in the original application is identical to that of Kant Lal Mandal (Supra) and other matters referred to hereinabove, there is no escape from the conclusion that the applicant deserves identical consideration. The respondents are thus directed to ascertain the date of



occurrence of vacancy and the reason for delayed DPC, if any. If it is found that DPC was delayed, and timely holding of DPC would have entitled the applicant to earn qualifying service for pension, to grant pension to the applicant reckoning the services as Postman as minimum qualifying service for pension with effect from due date or consider grant of relaxation in qualifying service under Rule 88 of CCS (Pension) Rules, after adjusting any payments if required in accordance with law."

6. That order was challenged by the respondents before the Hon'ble High Court in WPCT No. 54 of 2014 and the Writ Petition was also dismissed by the Hon'ble High Court vide its order dated 27.1.2015 upholding the order of this Tribunal.

7. The Ld. Counsel for the applicant states that after the judgment of the Hon'ble High Court of Calcutta upholding the order of this Tribunal in O.A. No. 131 of 2012 the respondents have come out with an order dated 16.6.2015 in respect of the claim of the applicant wherein the respondents have rejected the claim of the applicant. The respondents have placed before us a judgment passed by the Hon'ble Apex Court in Civil Appeal No. 13675-13676 of 2015 wherein the Hon'ble Apex Court has categorically held in a similar controversy that pension can be granted only in accordance with the rules and not other wise. While stating that Hon'ble Apex Court has also held that the benefit of a Circular of the year 1991 issued by the DOP&T was not extended to part time casual employees. It is also held that the matter pertaining to policy and involves financial implication. Though the Hon'ble Apex Court has held in SLP No. 13675-13676 of 2015 that the benefit already extended to the employee shall continue and he will enjoy the benefit of pension but on principle the Hon'ble Apex Court has held that pension cannot be granted in absence of any statutory provisions and without rules. The respondents have also placed an order of this Tribunal in O.A. No. 1356 of 2014 wherein also the



similar issue was raised and the O.A. has been dismissed taking into account the judgement passed by the Hon'ble Apex Court in SLP No. 13675-13676 of 2015.

8. Hence, when already the judgment passed by the Hon'ble Apex Court in Civil Appeal No. 13675-13676 of 2015 and the order of O.A. No. 1356 of 2014 is placed before us wherein the issue is exactly similar in nature we cannot direct the respondents to make up the short-falls of the applicant by taking into account the EDA period of employment for the purpose of giving him pension and pensionary benefits.

9. Accordingly, as the Hon'ble Apex Court judgements are taken as law of the land, the ratio held by the Hon'ble Apex Court is to be followed in its true spirit. Hence, the O.A. lacks merit and is dismissed. No costs.

(Jaya Das Gupta)
Administrative Member

(Jasmine Ahmed)
Judicial Member

SP