

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA. 350/00123/2015

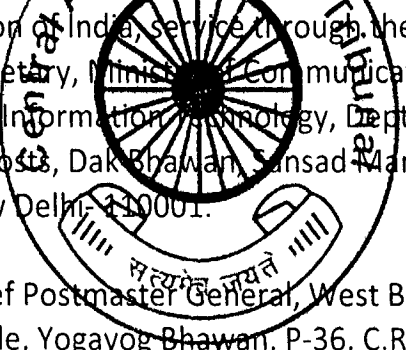
Date of Order: 20.06.2018

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

Amit Biswas, son of Sri Monoranjan Biswas, aged about 27 years, working as Income Tax Inspector under Commissioner of Income Tax, Hyderabad, residing at C-49, Income Tax Quarters Road No. 12, Banjara Hills, Hyderabad, Andhra Pradesh- 500034.

.....Applicant.

-versus-

- 
1. Union of India, service through the Secretary, Ministry of Communication and Information Technology, Dept. of Posts, Dak Bhawan, Sansad Marg, New Delhi- 110001.
 2. Chief Postmaster General, West Bengal Circle, Yogayog Bhawan, P-36, C.R. Avenue, Kolkata- 700012.
 3. General Manager (Postal A/c's & Finance) Yogayog Bhawan, P-36, C.R. Avenue, Kolkata- 700012.
 4. Senior Supdt. Of Post Offices, North Kolkata Division, Kolkata- 700 037.
 5. Senior Superintendent of Post Offices, Asansol Division, Asansol H. Q.- 713301.
 6. The Commissioner of Income Tax, Hyderabad – I, K.C. Guards, I.T. Town, Hyderabad- 500004.

.....Respondents.

For the Applicant : Mr. S. Bhattacharya, Counsel

For the Respondents : Mr. A. Mondal, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, Judicial Member:

Heard Id. counsel for both the parties.

2. The applicant joined as Postal Assistant on 22.07.2003 in the Postal Department under North Kolkata Division. He was governed under CCS (Pension) Rules, 1972 at that material time. While working at such his service was terminated on 01.06.2005 and upon challenge the termination order was quashed and he was treated in continuous service with effect from 22.07.2003 under the Postal Department. Therefore that fact that he entered Postal Department prior to 01.01.2004 is conclusive.

This Tribunal directed his reinstatement in service with back wages and this order was upheld by the Hon'ble High Court in WPCT No. 159/2007. Meanwhile the applicant joined in Asansol Division of the Postal Department, whereafter on the basis of CGLE, 2005, he was selected as Income Tax Inspector and joined such post.

He submitted his technical resignation to the Postal Authorities to join as such.

On 13.07.2010, he was given continuity of service from 22.07.2003 to 01.12.2006 in the erstwhile department.

The applicant is aggrieved as in the new department, he has been ordered to be governed under New Pension Scheme introduced with effect from 01.01.2004.

After the order dated 13.07.2010, he approached the erstwhile authorities, on 13.10.2011, for transferring his GPF account to the new department, which is yet to be disposed of.

He also approached the present department i.e. Income Tax Authorities vide letter dated 21.07.2014 for counting of his past services in the department of Posts for the purpose of pension and for conversion of New Pension Account to regular one which existed prior to 01.01.2004.

The Administrative Officer (DPO) Office of the DIT (IT& TP), Hyderabad responded to his letter dated 21.07.2014 on 25.08.2014 in the following manner:

"Sub: Counting for your past service prior to 01.01.2004 in Dept. of Posts for conversion of new pension scheme to regular pension scheme- Regarding



Ref: Your letter dt. 21.07.2014.

Please refer to the above.

Vide reference cited above, you had requested for counting of your past service prior to 01.01.2004 in Dept. of Post, Kolkata, for conversion of new pension scheme to regular pension scheme. On perusal of your service register and personal file, it is noticed that you had joined as Postal Assistant in Kolkata in the month of July, 2003 and covered under regular pension scheme. Late, you were terminated in June, 2005 and your services were regularized from 22.07.2003 to 01.12.2006 vide order dt. 13.07.2010 of the Hon'ble High Court, Kolkata.

Further, you have joined the new pension scheme in the month of Dec, 2006 while working as Postal Assistant in the Dept. of Posts, Kolkata and later in the month of Dec, 2008 in Income Tax Dept., Hyderabad as ITI.

6

In view of the above, I am directed to request you to firstly get your service regularized in the old pension scheme in the Postal Department, Kolkata i.e. upto 04.12.2008. Then the conversion of new pension scheme to old pension scheme can be taken up in the Income Tax Department.

Hence, you are requested to apply afresh to the Postal Department, Kolkata through proper channel for regularization of your service in old pension scheme.

(USHA KARTIGEYAN)
Administrative Officer (DDO)
O/o DIT (IT & TP), Hyderabad"

Citing the aforesaid Id. Counsel for the applicant would contend that the respondent, Income Tax authorities are open for such consideration.

3. Id. Counsel for respondents very fairly admitted at the bar that the entire period from 22.07.2003 to 01.11.2006 had already been regularized by the erstwhile postal department.

However, Id. Counsel would also invite my attention to the order dated 19.11.2008 which shows that while accepting his appointment under Income Tax Department, the applicant agreed to abide by the following term and condition:

"(x) he is informed that the new pension scheme communicated by the Department of Expenditure, Ministry of Finance, Government of India O.M. in F. No. 1(7)(2)/2003/TA/11 dated 07.01.2004 will be applicable to him. Immediately on joining Government service, he will be required to provide particulars such as his name, designation, scale of pay, date of birth, nominee(s) for the fund, relationship of the nominee, etc. in the prescribed form (Annexure A-I enclosed)"

Therefore, Id. Counsel would submit that the applicant having agreed to such, is estopped from claiming otherwise.

4. The rival contentions were considered.

5. In view of assurance given by respondents themselves which indicated that the prayer of the applicant for conversion from New Pension Scheme to old pension scheme can be considered, the applicant is given liberty to prefer a representation to the Postal Department i.e. Respondent No. 3, within a period of 4 weeks to regularize the entire period of his service in the postal department i.e. from 22.07.2003 to 01.12.2006, as continuous service to be governed under old pension scheme as he was being originally governed prior to 01.01.2004 in North Kolkata Division.

6. Upon receipt of such request the concerned Postal Authorities in view of his deemed continuous service with effect from 22.07.2003 would issue an appropriate order regularizing the same period as reckonable for pension under old pension scheme and convey the same to the applicant within two months.

7. Immediately, thereafter, the Respondent No. 6 or any other competent authority shall be approached by the applicant for issuance of an appropriate order in the light of the assurance given on 25.08.2014 to the applicant that upon regularization of the entire period from 22.07.2003 to 01.12.2006 by the Postal Authorities they would consider the conversion from new pension scheme to old pension scheme as it would jeopardise none.

8. Such appropriate order shall be issued within a further period of two months and benefit thereof shall be extended within one month thereafter.

9. Accordingly, OA would stand disposed of. No order as to costs.

(Bidisha Banerjee)
Member (J)