

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00071-00073/2018

DATED THIS THE 25TH DAY OF OCTOBER, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

1. V.H. Srihari,
S/o Hanunesaddi,
Aged about 58 years,
Working as Mail Overseer,
O/o Hubli West Sub-Division,
Hubli – 580 020
Residing at:
No. B-14, Postal Quarters,
Vikasnagar,
Hubli – 580 029

2. Manjunath G. Melinamani,

S/o Gurusiddappa,
Aged about 47 years,
Working as Postman,
Hubli Gokul SO,
Hubli – 580 027
Residing at:
Gokul Extension,
Hubli – 580 027

3. Shashidharayya A. Viraktamath,

S/o Andamayya,
Aged about 47 years,
Working as Postman,
Hubli – 580 020
Residing at:
EWS 294, 8th Main,
Navanagar,
Hubli – 580 025

.....Applicants

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Represented by Secretary,
Department of Post,
Dak Bhavan,
New Delhi – 110 001

2. Chief Post Master General,

Karnataka Circle,
Bangalore – 560 001

3. Post Master General,
N.K. Region,
Dharwad – 580 001

4. Senior Superintendent of Post Offices,
Dharwad Postal Division,
Dharwad – 580 008

....Respondents

(By Shri N. Amaresh, Counsel for the Respondents)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J)

This matter seems to be covered on facts in OA No. 643/2017 dated 08.08.2018 which we quote:

“Heard. The applicant was appointed as GDS in 1980. Thereafter following a notification dtd.28.07.2002, a selection process was held in which the applicant was held to be surplus in accordance with the prevailing rules.

2. Now the respondents would say that vide OM No.2/8/2001-PIC dtd.16.05.2001 which mandated that each Dept./Ministry to obtain the approval of Screening Committee for filling up of direct vacancies. Accordingly, the Screening Committee vide order dtd.18.09.2003 approved filling up of unfilled direct recruitment vacancies. The respondents have produced the letters dtd.06.09.2002 and 18.09.2003 as Annexures-R2 & R3 respectively. Pursuant to this, vide communication dtd.08.10.2003, the 2nd respondent sought clearance of vacancies approved by Screening Committee from the Surplus Cell. Thereafter, vide communication dtd.02.12.2003 informed DoPT that as no reply has been received till date, it is presumed that the DoPT has no objection for appointment against the posts cleared by the Screening Committee. This is produced by the respondents as Annexure-R4. A copy of the letter dtd.04.12.2003 is produced as Annexure-R5. On 24.03.2004, the surplus list was announced by the 3rd respondent vide Annexure-A2 and the applicant was allotted to Chikodi Division. It indicates that the applicant was already selected.

3. *The respondents at this point will say that under Rule 9 of Appendix 9 to the Postal Volume IV mandates undergoing of compulsory practical training for 10 days for the selected candidates before joining as Postman. It may be noted in this connection that the applicant had been all the while from 1999 doing nothing other than a job of Postman for 23 years. But while the training was organized and appointment letter issued, it came up to 27.04.2004. In the meanwhile, the new pension scheme came into effect on 01.01.2004. Therefore, the question is whether the applicant will be eligible to be counted for the old pension scheme or for the new pension scheme.*

4. *This matter is covered by Annexure-A8 judgment of Ernakulam Bench and Annexure-A9 judgment of this Tribunal itself and Annexure-A10 of Delhi High Court judgment which are in the same way indicating that if there had been delay due to no fault of the applicant and on the fault of the respondents, then the time will be subtracted from the time available to the applicant. It must be considered in this connection that even though appointment order was issued after the training on 27.04.2004, all the formalities required were completed as early as 2003 at the latest. The only issue was the delay on the part of the DoPT replying to the communication which was pursuant to the selection in 2002. Therefore, the applicant is eligible to be considered under the old pension scheme and not under the new pension scheme.*

5. *The OA is thus allowed. No costs.”*

2. Since this matter is covered by our orders, we allow this OA also in terms of OA No. 643/2017 dated 08.08.2018.

3. Therefore the OA is allowed. No order as to costs.

(DINESH SHARMA)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

Annexures referred to by the applicant in OA No. 170/00071-00073/2018

Annexure A1 Copy of the SSPO letter dated 14.01.2004

Annexure A2 Copy of the SSPO letter dated 10.02.2004

Annexure A3 Copy of the representation of the applicants dated 29.09.2017

Annexure A4 Copy of the SSPO letter dated 18.12.2017

Annexure A5 Copy of the Hon'ble Apex Court order dated 22.04.1977 in SSPO Vs. P.K. Rajamma and others

Annexure A6 Copy of the Central Administrative Tribunal, Ernakulam Bench order dated 15.02.2016 in O.A. No. 20/2015

Annexure A7 Copy of the Central Administrative Tribunal, Bangalore Bench order in O.A. No. 1610/2015 dated 11.11.2016

Annexure A8 Copy of the Hon'ble High Court of Delhi order in Writ Petition No 2810/2016 dated 27.03.2017

Annexures with reply statement

Annexure R1 Copy of the OM dated 16.05.2001

Annexure R2 Copy of the communication dated 06.09.2002

Annexure R3 Copy of the communication dated 18.09.2003

Annexure R4 Copy of the letter dated 02.12.2003

Annexure R5 Copy of the communication dated 04.12.2003

Annexure R6 Copy of the extract of Rule 9 regarding syllabus of training

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