

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.138/2019

Dated Friday, the 8th day of February, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

&

Hon'ble Mr.P.Madhavan, Judicial Member

K. Paramanantham

Mail Overseer

Srivaikuntam Sub Division

Srivaikuntam – 628 601.

... Applicant

By Advocate M/s S Arun

Vs

1. Union of India, rep. by

Chief Postmaster General

Office of the Chief Postmaster General

Chennai – 600 002.

2. The Senior Superintendent of Post Offices

Tuticorin Division

Tuticorin – 628 008.

... Respondents

By Advocate Su.Srinivasan

(Order: Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“To set aside Memo No. B2/Misc dated 28.03.2017 passed by the 2nd respondent and consequently direct the respondents to include his entire Gramin Dak Sevak service from 15.03.1983 to 24.08.1999 as qualifying service for the purpose of his pension calculation as per CCS (Pension) Rules, 1972 with all attendant benefits.”

2. Learned counsel for the applicant would submit that the applicant is similarly placed as those in OA 749/2015 disposed of by the Principal Bench of this Tribunal by an order dated 17.11.2016. As it was a judgement in rem and it had been held therein that persons appointed as GDS were entitled to pension, the applicant should also be granted the benefit, it is contended.

3. Mr.Su.Srinivasan, learned senior central government standing counsel appearing for the respondents, opposes the prayer submitting that a similar claim had been considered by this Bench earlier in OA 785/2011 which was rejected. The matter was taken up further before the Hon'ble Madras High Court in WP. No. 13500/2016. Hon'ble High Court in its order

dated 17.10.2016 rejected the prayer of the applicants therein and held that though GDS were holders of a Civil Post, they were not entitled to pension as they were outside the Civil Service of the Union.

4. It is submitted that the Principal Bench passed the order in the said OA without being aware of the order passed by the Hon'ble Madras High Court and, therefore, the applicant could not claim benefit thereunder. In any case, the order of the Principal Bench had been challenged in a Writ Petition before the Hon'ble Delhi High Court and as such, it has not attained finality.

5. It is further submitted that the demand for pension by GDS was considered by the 7th Pay Commission which had also noted that in terms of the judgement of the Hon'ble Supreme Court in the relevant case, GDS were only holders of a Civil Post and did not belong to a Civil Service of the Union.

6. We have considered the matter. At this stage, since a similar claim had been rejected earlier by this Bench and the Hon'ble Madras High Court had upheld the order, it would not be possible to go into the merits of the claim of the applicant denovo. It is also evident that the matter is before the Hon'ble

Delhi High Court and it is for the affected parties to bring it to the notice of the said Court, the judicial precedents in this regard including the order passed by the Hon'ble Madras High Court. The law on the subject is expected to attain finality only after the matter is disposed of by the Hon'ble Delhi High Court. In the event of the matter being taken up further in the Hon'ble Supreme Court by either side, the decision of the Hon'ble Apex Court would finally settle this issue.

7. In the aforesaid background, facts and circumstances of the case, we are of the view that this OA could be disposed of with a direction to the respondents to reconsider the claim of the applicant for pension under CCS (Pension) Rules 1972 in the event of the law being finally settled in favour of persons similarly placed as the applicant herein with regard to their claim for grant of pension under the said rules within a period of three months thereafter. Respondents directed accordingly.

(P.MADHAVAN)
MEMBERJ)

(R.RAMANUJAM)
MEMBER (A)

08.02.2019

M.T.