

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

OA/310/001521/2018

Dated Wednesday, the 5th day of December, 2018

PRESENT

**Hon'ble Mr.R.Ramanujam, Administrative Member
&
Hon'ble Mr.P.Madhavan, Judicial Member**

S.Latha,
W/o V.Ramasamy,
No.3/128, Thevaipatti Post,
Kalappanaickenpatti Via,
Namakkal District
PIN 637 404.

...Applicant

By Advocate M/s R.Malaichamy

Vs.

1.Union of India,
Rep., by the Postmaster General,
Western Region (TN),
Coimbatore 641 002.

2.The Superintendent of Post Offices,
Namakkal Division, Namakkal 637 001.

3.The Assistant Superintendent of Post Offices,
Namakkal East Sub Division, Namakkal 637 001.

...Respondents

By Advocate Mr.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:

“(a)To call for the records of the 2nd respondent pertaining to his order which is made in (1) No.B3/2012/Appt/18/dlgs dated 07.09.2017 and (2) No.B3/GDS Retirement dated 08.12.2017 and set aside the same; consequent to

(b)Direct the respondents to treat the initial date of appointment of the applicant at Tirumalaipatti as GDS BPM for seniority and for all other service benefits from 25.04.1996; and

(c)To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.”

2. It is submitted that the applicant was appointed as GDS BPM by letter dated 15.04.1996 and he joined the post on 25.04.1996. Her appointment was challenged in OA 434/1996 and this Tribunal was pleased to allow the OA in so far as the claim of the applicant therein was concerned, however, duly protecting the interest of the 3rd respondent therein, i.e., the applicant in the present OA. Accordingly, while the applicant therein could be granted appointment to the said post, the applicant herein was not to be allowed to suffer on account of the lapses on the part of the department. The Tribunal directed that the applicant shall be duly

accommodated in the nearest post by the first respondent therein.

3. It is further submitted that the applicant had continued undisturbed ever since. However, she has now come to know that she had been granted seniority w.e.f 2003 whereas she was appointed in 1996. When she made enquiries in this regard, she was informed that WP No.14737/1999 was filed against the order of this Tribunal in the said OA and the respondents had passed an order dated 27.03.2003 in accordance with the directions of the Hon'ble High Court granting fresh appointment to the applicant in order to protect her service which she accepted without any demur. As such, her seniority would count from the year 2003 only.

4. Learned counsel for the applicant would allege that the applicant sought RTI information from the respondents seeking a copy of the judgment of the Hon'ble High Court in the said case which, however, was denied to her on the ground that no records were available. It is submitted that if the respondents could refer to a communication dated 27.03.2003 issued to the applicant allegedly in terms of the directions of the Hon'ble High Court in the said WP, there is no reason why they should not have kept a copy of the judgment as well on record. Accordingly, the applicant is entitled to the relief sought, it is contended.

5. Mr.Su.Srinivasan appearing for the respondents would submit that the communication dated 27.03.2003 clearly reveals that the applicant was granted fresh appointment in terms of the Hon'ble High Court in the said WP. Presumably the applicant was also a party therein. If the applicant had any grievance with regard to the said order, she should have agitated the same at the relevant time. The matter cannot be agitated now after a lapse of more than 15 years.

6. We have considered the pleadings of the applicant and the submission made by the rival counsel. The order of the Hon'ble High Court in WP 14737/1999 is not before us. It is for the applicant to seek a copy thereof from the Hon'ble High Court as per the court rules, if the same is not available with the respondents. In the absence of any documentary evidence and in view of the lapse of time, we have no option but to accept the contention of the respondents that the order dated 27.03.2003 granting fresh appointment to the applicant was in accordance with the directions of the Hon'ble High Court in the said WP.

7. At this stage, learned counsel for the applicant alleges that the above is not factually correct and according to the applicant, the said WP was filed by the applicant herself who withdrew it and,

therefore, it was dismissed as withdrawn. If so, it is for the applicant to obtain a copy of the order of the Hon'ble High Court and if it is found that the Hon'ble High Court had not issued any directions to the respondents to cancel the original appointment order and issue a fresh order w.e.f a prospective date, she shall be at liberty to make a fresh representation along with the copy of the WP order to the competent authority. On receipt of such representation, it is for the competent authority to consider the same in accordance with law and pass appropriate orders.

8. OA is disposed of in the above terms. No costs.

(P.MADHAVAN)
MEMBER(J)

05.12.2018

(R.RAMANUJAM)
MEMBER (A)

M.T.