

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.1593/2018

Dated Wednesday, the 5th day of December, 2018

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

&

Hon'ble Mr.P.Madhavan, Judicial Member

1.N.Krishnan

2.S.Subramanian

3.T.Vaithiyanathan

4.V.Raman

5.S.Arrom Prasad

6.M.Hariraman

7.P.Subramanian

8.P.Senthil

9.R.Sekar

10.P.Sivaraman

...Applicants

By Advocate M/s R.Malaichamy

Vs.

1.Union of India,
Rep., by the Secretary,
Ministry of Communications & IT,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi 110 001.

2.The Chief Postmaster General,
Tamil Nadu Circle, Anna Salai,
Chennai 600 002.

3.The Postmaster General,
Central Region (TN),
Tiruchirappalli 620 001.

4.The Superintendent of Post Offices,
Cuddalore Division,
Cuddalore 607 001.

...Respondents

By Advocate Mr.Su.Srinivasan

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

MA 660/2018 filed by the applicants for joining together to file a single OA is allowed.

2. The applicants have filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"(i) To call for the records of the 4th respondent pertaining to his orders which is made in (1) No.B2/Postman Dlgs/2018 dated 06.08.2018 (A-4) and No.B2/Postman Dlgs/2018 dated 06.09.2018 (A-5) and set aside the same; consequent to

(ii)Direct the respondents to treat the GDS service rendered by the applicants as qualifying service along with regular service and thereby to treat the service of the applicants under old pension scheme within the purview of CCS (Pension) Rules 1972 and further,

(iii)Direct the 4th respondent not to recover any amount from the salary of the applicants towards New Pension Scheme and thereby to refund the amount recovered from their salary towards such Scheme, also

(iv)Direct the respondents to open GPF Account instead of CPG Account to the applicants and;

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

3. Learned counsel for the applicants submits that the applicants are similarly placed as those in OA 749/2015, disposed of by the Principal Bench by an order dated

17.11.2016. As the Principal Bench had held that persons appointed as GDS were entitled to pension, the applicant should also be granted the benefit as it was a judgement in rem.

4. Mr.Su.Srinivasan, learned Senior Standing Counsel for the Central Government appearing for the respondents, however, 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. 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 has been challenged in a Writ Petition before the Hon'ble Delhi High Court and as such, it has not attained finality.

5. Learned counsel for respondents further states 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, we would not be able to go into the merits of the claim of the applicants afresh. It is also evident that the matter is before the Hon'ble Delhi High Court and it is for the affected parties to bring to the notice of the Hon'ble Delhi High 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, we are of the view that these OAs could be disposed of with a

direction to the respondents to reconsider the claim of the applicants for pension under CCS (Pension) Rules 1972 in the event of the law being finally settled in favour of persons similarly placed as the applicants herein with regard to their entitlement for grant of pension under the said rules. Respondents directed accordingly.

(P.MADHAVAN)
MEMBER(J)

(R.RAMANUJAM)
MEMBER (A)

05.12.2018

M.T.