

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01420/2018

Dated Wednesday the 2nd day of January Two Thousand Nineteen

**CORAM : HON'BLE MR. R. RAMANUJAM, Member (A)
HON'BLE MR. P. MADHAVAN, Member (J)**

R.Rajendran,
180, West Street,
Anaikudi,
Thanjavur District. Pin 612105

....Applicant

By Advocate M/s. R. Malaichamy

Vs

1.Union of India,
rep by the Secretary,
Ministry of Communications & IT,
Dak Bhavan, Sansad Marg,
New Delhi 110001.

2.The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai, Chennai 600002.

3.The Postmaster General,
Central Region (TN),
Trichy 620001.

4.The Superintendent of Post Offices,
Kumbakonam Division,
Kumbakonam 612001.Respondents

By Advocate Mr. Su. Srinivasan

ORAL ORDER**(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))**

Heard. The applicant has filed this OA seeking the following reliefs :

"1. To call for the records of the 4th respondent pertaining to his order which is made in B2/PM/MTS dated 11.09.2018 and set aside the same, consequent to ,

2. direct the respondents to induct the applicant into statutory pension scheme under CCS (Pension) Rules, 1972 notionally treating the applicant as he has been appointed as Postman from the date of occurrence of vacancy in the year 2001, also by counting the entire GDS service, along with regular service for the limited purpose of grant of pension under CCS (Pension) Rules, 1972; further,

3. direct the respondents to treat the service of the applicant under old pension scheme and thereby to open GPF Account instead of CPF Account and

4. 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 aggrieved by Annexure A4 order dt. 11.09.2018 by which his representation dated 27.06.2018 for grant of pension under the CCS (Pension) Rules, 1972 was rejected on the ground that no specific orders had been received by the department for considering the period of the year of vacancy till his appointment as Postman as qualifying service and treating the entire GDS service for grant of pension under Old Pension Scheme.

3. Learned counsel for the applicant would argue that in a similar case where the persons concerned had been appointed against a 2002 or 2003 vacancy, the Tribunal had directed the authorities to grant pension under the CCS (Pension) Rules, 1972 as it was not the applicants' fault that their appointment was delayed beyond 01.01.2004. It is further submitted that the orders of this Tribunal had been upheld by the Hon'ble Madras High Court. However, SLPs thereagainst are

pending in the Hon'ble Apex Court.

4. Learned counsel for the applicant would add that the matter of eligibility of GDS to count the GDS service for the purpose of Pension under the CCS (Pension) Rules, 1972 is also pending before the Hon'ble Apex Court in SLP no. 16767/2016 and SLP no. 18460/2015. Accordingly, the applicant would be satisfied if the respondents are directed to review the impugned order in accordance with the law to be laid down by the Hon'ble Apex Court in the pending cases.

5. Mr. Su. Srinivasan, SCGSC who takes notice for the respondents would, however, submit that the applicant had not sought such relief in this OA and, therefore, the argument should be confined to treating the officiating service rendered by the applicant as qualifying for the purpose of pension under CCS (Pension) Rules, 1972. Clearly, the applicant had been appointed into Government service after 01.01.2004 and, therefore, such addition of officiating service, even if allowed would not make any material difference to the rights of the applicant as he could not be covered by any scheme other than the NPS, it is contended.

6. We have considered the matter. From the facts of the case and the representation of the applicant dated 26.06.2018, it appears that the applicant was selected against a 2001 vacancy and hence the ratio of the previous orders passed by this Tribunal would hold good unless reversed by the Hon'ble Apex Court. A similar case have been disposed of by this Tribunal in OA 1226/2016

by order dated 04.09.2018. It was observed therein that in the event of the Hon'ble Apex Court upholding the order of this Tribunal to the effect that persons appointed against pre-2004 vacancies should be considered eligible for pension under the CCS (Pension) Rules, 1972, the competent authority shall review the impugned order therein and pass fresh orders. In such circumstances, we are of the view that this OA could also be disposed of with the following direction:

"In the event of the Hon'ble Apex Court upholding the order of this Tribunal to the effect that persons appointed against pre-2004 vacancies should be considered eligible for pension under the CCS (Pension) Rules, 1972, the competent authority shall review the impugned order dt. 11.09.2018 within a period of two months thereafter and pass fresh orders. Similar action shall be taken in the event of the SLPs cited supra in respect of counting GDS service for pension being decided in favour of persons similarly placed as the applicant."

7. OA is disposed of as above. No costs.

(P. Madhavan)
Member(J)

(R. Ramanujam)
Member(A)

02.01.2019

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